

CHARTER COMMISSION

April 9, 2003

5:00 PM

Chairman Dykstra called the meeting to order.

The Clerk called the roll.

Present: Leona Dykstra, Bob Shaw, Donna Soucy, Brad Cook, Patrick Duffy,
Keith Hirschmann, Leo Pepino, Nancy Tessier, Michael Wihby

Mssr: Deputy Solicitor Arnold

Chairman Dykstra addressed item 3 on the agenda:

Minutes of meetings held March 26, 2003 and April 2, 2003.

On motion of Commissioner Duffy, duly seconded by Commissioner Cook, it was voted to accept the March 26, 2003, minutes.

Commissioner Duffy stated I have a question as far as clarification on the April 2nd meeting minutes. On the April 2nd, I'm looking for a clarification. On page 31, Commissioner Soucy was raising a question about limitation of terms on quasi-judicial or judicial boards like Zoning Board, Planning Board, etc. Clerk Johnson replied, "You're all set." And I looked at the draft, and that isn't what it is. I'm wondering whether or not that was referencing that or was that part of a lot of other...

Deputy Clerk Johnson responded I was talking to somebody else. There were five conversations at the same time.

Commissioner Duffy stated I recall that. That's exactly the point I'm making.

Deputy Clerk Johnson stated we couldn't actually hear what Commissioner Soucy was saying on the tape. We went back to the tape. We listened to it five times by three different people, and this was the best that we could get from the tape because there were better than four conversations going on at the table at the same time.

Commissioner Duffy stated excuse me, I still have the floor.

Deputy Clerk Johnson stated so what we did is we extrapolated what could be heard on the tape, and that's exactly what you have before you.

Commissioner Duffy stated I can well understand, and I commend the staff for being able to be able to draft these minutes in the fashion they have considering some of the multiple conversations going on. I would like to reserve that particular element for discussion when we get into discussion on the draft Charter this evening. So that's 3.04. Rather than try to clarify it in the minutes, I would like to have that as an item for discussion this evening.

Chairman Dykstra stated well, you're either going to accept the minutes or do you want to just table them till the discussion. I mean, or you make a correction to them or a deletion.

Commissioner Duffy stated I am not in a position to make a correction based on what Carol just mentioned because I think that's something that needs to be clarified this evening.

Chairman Dykstra stated okay. Why don't we just not even bother with a motion. We'll just hold it. Okay, not a problem.

Commissioner Duffy stated I'll move to table them then, so that we have something formal on it.

Commissioner Tessier duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated before we get into this, do you want to discuss this down the road or do you want us to go through this and when we come up to it...

Commissioner Duffy stated I assume we're going to go through this.

Chairman Dykstra stated we are going through everything.

Commissioner Duffy stated so why don't we just hold on it.

Chairman Dykstra stated all right, that's not a problem.

Commissioner Pepino stated I didn't bring my minutes.

Chairman Dykstra stated well, she just sent out today, I got it in the mail, we have the draft of our Charter. You left it at home? Okay, well we just got that today. I don't know if everybody had a chance to go through it. Right here, proposed Charter. I already kind of went through it quickly today. Do you want to continue where we left off, then start from the beginning again, or how would you like to do it?

Commissioner Shaw stated I want to make a motion that the effective date of this Charter that we are proposing be the date that the Charter has been certified as passing.

Chairman Dykstra stated I think it is in there.

Deputy Clerk Johnson stated that's what's in there. Effective upon passage is what you presently have in there.

Commissioner Shaw stated but I understand that there might be some things in there relating to that people can keep their office. If we had an election, do you have written in there that they can be sworn in?

Chairman Dykstra stated that's in section...we just looked at that. What section is that?

Deputy Clerk Johnson stated the only portions that what we did do based on what had been passed at one point in time is started working on transition provisions, and there is a section with relation to people taking office.

Commissioner Pepino asked what page.

Deputy Clerk Johnson responded it's on page 35 actually.

Commissioner Shaw stated but it might be transition. Am I speaking to transition?

Deputy Clerk Johnson stated on page 35 on the bottom of the page, Section e), I believe is what Commissioner Shaw is referring to, and what we had done was said that under law, the current Charter that you're putting out says that everybody is going to take office two weeks after the election. Now because you have a transitional period of time, you had to deal with the people currently in office. They were elected to serve a certain term. They have to complete that term. So, what we said was they would normally go out of office effective noon on January sixth when the next people come in according to the Charter that the people are currently serving under. Your new Charter says that they would go in earlier, so

your transition was the first term of office of those elected instead of going in January sixth and staying until the following January sixth are only going to stay till the November date. That puts you in current with your current Charter. However, you also have eliminated two positions, and the questions have been raised as to what happens to the At Large positions because you no longer have them in your Charter as proposed. Those positions under the Charter as you are proposing it now would never take office according to the ruling from the Solicitor's office. If that is your intent, it should be clearly stated in my opinion in the Charter, or you can state it otherwise and say no, because they were elected, you're going to let them serve out a two year term, and then they will go away. However this Commission chooses to deal with it, but the opinion of the Solicitor is if the effective date of the Charter is upon passage and it is placed on the November ballot, and you have At Large positions on that November ballot, those positions are not there for the people to take office in January. And therefore, it's a non-existent position, and they would never enter office.

Commissioner Shaw stated you said effective noon on the sixth.

Deputy Clerk Johnson responded yes because under State law you have...well not noon. I'm sorry, 10 a.m.

Commissioner Shaw asked so, is it permissible for somebody to be sworn in before that time in the State of New Hampshire.

Deputy Clerk Johnson responded no.

Commissioner Shaw asked in other words to go against our wishes to eliminate positions if that was our wish, could they be sworn in at eight o'clock in the morning and therefore couldn't be eliminated.

Deputy Clerk Johnson responded no. State law requires it at a specific time certain.

Commissioner Shaw stated my intent was that the Charter should take precedence on January sixth. Whatever the Charter is at the moment of January sixth comes, that's in there, but you say we should more clearly state that...

Deputy Clerk Johnson stated I'm saying if it is your intent that those positions go away, I think you should clearly state that, and then it'll go up for all its reviews. From there, you would get any...I mean, the Solicitor has already made that ruling anyway.

Commissioner Shaw stated I would make the motion, Madame Chair, that it is the intent of the Charter Commission that effective 10 a.m. on December sixth, 2004...

Chairman Dykstra asked December sixth.

Commissioner Shaw stated January sixth, 2004, that the number of Aldermen allowed in the Charter are the number that could be sworn in.

Commissioner Pepino stated I'll third that.

Commissioner Hirschmann stated I'll second it for discussion, but I'd love to...

Chairman Dykstra stated moved and seconded.

Deputy Clerk Johnson stated I would rather just insert the language here that would be his requirement which would be after elected on November 4th, 2003, other than Aldermen and School Committee At Large and Commissioner of Welfare.

Chairman Dykstra stated now we've got a second, so she's talking about an insertion that could clear it up.

Commissioner Hirschmann stated that's what I want to discuss.

Chairman Dykstra stated okay, that's what we're going to discuss now. She just brought it up. We can discuss it.

Deputy Clerk Johnson stated before you take that motion, could you just take that back for one second, cause there's one other issue with this that you probably want to get a ruling from the Solicitor on first.

Commissioner Shaw stated go ahead. Take it back.

Chairman Dykstra stated he just took it back, both of them.

Deputy Clerk Johnson stated the Commissioner of Welfare position actually there's a separate State law that Attorney Arnold looked at this afternoon, and he can speak to that.

Deputy Solicitor Arnold stated I think that there is a difference between abolishing a position as you're doing with the Aldermen At Large and changing how a candidate if you will is selected for a position such as you're doing with the

Welfare Commissioner. As you are aware, the Statute that provided for Welfare Commissioner be changed from an elected to appointed position specifically states that the present Commissioner shall serve out their term. And since you're not abolishing the position, you're changing how a position is selected that that person probably ought to serve out their term with provision made how the successor is going to be chosen.

Chairman Dykstra stated right, because the position still exists.

Commissioner Cook asked but isn't that person's...the present Commissioner of Welfare's term ends at 10 o'clock in the morning on the sixth of January, whatever because it's an elected two year position, right.

Deputy Solicitor Arnold responded that's right.

Commissioner Cook stated so that's happening, right.

Deputy Solicitor Arnold responded that's happening but you will also for the Commission's consideration have a candidate presumably who is going to run for that office in September and again in November and be elected.

Commissioner Shaw asked what's the difference between the two, an Alderman or a Welfare Commissioner.

Deputy Solicitor Arnold stated because the Aldermen, you're abolishing the position. You're not abolishing the position of Welfare Commissioner.

Chairman Dykstra stated you're just changing it from elected to appointed.

Commissioner Hirschmann stated so transition on that position would take later.

Commissioner Cook asked wasn't your language to change the name of the position to make it a department head.

Commissioner Hirschmann responded yes but what he's saying is someone else could be elected.

Commissioner Cook stated so what you're saying is the person elected will serve for two years, and then it becomes appointed. Is that what you're saying? I'm trying to understand the ramifications of what he said.

Deputy Solicitor Arnold stated the ramifications of course are...

Commissioner Pepino interjected big time.

Commissioner Hirschmann stated you could have two Welfare Commissioners at the same time was what he is saying.

Deputy Solicitor Arnold stated the present language provides that the person in the office shall become the Welfare Commissioner, and that might not be the person that's presently in office.

Chairman Dykstra stated but if it's appointed, he wouldn't be on the ballot.

Commissioner Shaw stated but he might not run.

Deputy Solicitor Arnold stated but if your Charter goes on the November ballot, presumably someone is going to run in September and presumably someone is going to run again in November.

Commissioner Cook stated let me put the question a different way. What should we do? What should it be? I just want to know what the law...

Deputy Clerk Johnson asked can we take it as two separate issues. If we look at this, we can change d) to take care of the Commissioner of Welfare, and we can change e) to take care of the Aldermen, okay.

Chairman Dykstra stated all right. What's your suggestion?

Deputy Clerk Johnson stated for the Commissioner of Welfare, right now reading, "The Commissioner of Welfare in office as of the effective date of this Charter shall remain in office as the department head." What you would say is, "The Commissioner of Welfare," you could say, "elected November 4th"...

Commissioner Hirschmann interjected elect.

Deputy Clerk Johnson responded no. "The Commissioner of Welfare elected on November 4th, 2003"...

Commissioner Hirschmann asked isn't he elect until he's sworn.

Chairman Dykstra asked why can't we just put the elected Commissioner of Welfare.

Deputy Clerk Johnson stated all right. How about, “The Commissioner of Welfare in office as of January 6th, 2004”? So that’s clear that whoever goes into that office at 10 a.m. in the morning, okay.

Commissioner Cook asked what’s wrong with what he said at first. “The Commissioner of Welfare elect elected at the election in November of 2003” whatever else then you want to say. That makes it clear. It’s not that...if it happens to be the person who was in office for the prior two years, he got re-elected. If it happens to be somebody else, fine.

Deputy Clerk Johnson stated we’ll put it as, “Shall take their oath of office on January 6th, 2004, and serve through November 22nd, 2005, at which time they shall remain in office as the department head of Welfare Department,” blah, blah, blah, blah, blah. That meets the Statute that says they have to fill their terms, it meets the requirements that you want it to become an appointed position and department head position although it doesn’t take effect until 2005 technically for that part, but it no longer is...

Commissioner Wihby asked is he considered an elected official until 2005 then.

Deputy Clerk Johnson stated there’s a Statute that says they have to finish their term of office, so my understanding is you want the position to remain in effect until 2005 and at that point, you have met that Statute.

Commissioner Cook stated I guess the follow-up question though Tom is if the...we haven’t started a debate on when this thing becomes effective which will be a different set of questions, but if this became effective when passed and if the we still have Commissioner of Welfare. We still have an elected Commissioner of Welfare serving until the end of the prior one’s elected term. We’re not abolishing the position. What is there about the State Statute that prohibits us from saying as we assumedly would be saying about the At Large positions, that they don’t exist any more so you can’t elect them in November? What is there saying about that it’s now an appointed position, so you can’t elect that in November? You still got the office. You haven’t abolished the office. You’ve just changed the selection mechanism. Why is it that we can’t do that?

Deputy Solicitor Arnold responded so that the present Welfare Commissioner would serve out this term and effective January of next year...

Commissioner Cook interjected the position would have to be filled. Either we would say, and the person then in office will serve until replaced by the Mayor and Aldermen or we would say would serve for a time or we would say the Mayor

would appoint and the Aldermen would confirm a new one. I mean those are the three options, I think.

Deputy Solicitor Arnold stated part of the practical problem is although there is case law in abolishing positions, the law is very gray in that area, and I you know would be hesitant to cast an opinion as to how some court might decide as to whether a person who has been elected to office, whether they could take office or not.

Commissioner Cook stated but let's make several assumptions. Let's make several assumptions, all of which I don't favor. One is you can vote on this thing at a primary, which I don't favor. The second one is it passes at the primary, which I don't favor. And therefore it becomes effective then, which I don't favor. Then, you don't get the person elected because he's never running in November. So why can't you do that? It's not an elected person. The person didn't get elected in November.

Deputy City Arnold stated in dealing with just the position, you know irrespective of the questions about the necessary legislation that would have to be passed to do it in September, keeping that aside, I think that if no one was elected in November, you're probably on much better ground to say whoever is in the office, however you want to have the follow-up person appointed, whether you want them to continue or whether you want to have the Board appoint, you know, that person presently in office or someone new or however you want to take of it, you could probably do that.

Commissioner Pepino stated after listening to this debate here, why don't we go back to the old KISS method, keep it simple. Leave it alone the way it was before, Welfare Commissioner. We won't get into all this mess.

Chairman Dykstra asked what do you mean. Have them elected?

Commissioner Pepino stated you might not get the proper wording. From elected, leave it elected. I think you're creating a mess here.

Commissioner Shaw stated the elected person stays in office until November of 2005.

Chairman Dykstra asked when does the Mayor get to appoint.

Commissioner Pepino stated it's going to end up in court, any way you look at this.

Deputy Solicitor Arnold stated well, that depends on what this Commission does. Under the present language, it provides, the present proposed language I should say provides that the person in office takes the position.

Deputy Clerk Johnson stated of department head.

Deputy Solicitor Arnold stated of department head, so the Mayor doesn't get to appoint, okay. Now this Commission of course if it so desired could provide that the, you know, the person in office serves out their term and then the Mayor could, you know, bring in a name subject to confirmation by the Board.

Chairman Dykstra stated I would think January sixth, he was done, and then the Mayor appoints somebody. I mean that's just a simple part of it that I would think he would do. What's wrong with doing that? Isn't that what the intent was by those of us who wanted that position, that on January sixth, he's done his term. He's fulfilled his obligation, and then the Mayor appoints. I mean, what are we waiting years for?

Commissioner Pepino asked how about the guy that won the election if he didn't win.

Deputy Clerk Johnson stated but if he won the election, I think he has to take office.

Commissioner Dykstra asked why should it even be on the ballot.

Commissioner Hirschmann stated a case could be made that the Welfare Commissioner's post has been abolished, and we've created a new...

Deputy Clerk Johnson interjected you can't.

Commissioner Hirschmann stated no, listen. It's been abolished, and we're creating by appointment a new department head.

Chairman Dykstra asked you need one by State law, don't you. You need it by State law.

Deputy Solicitor Arnold stated I would not interpret your action that way. I think where the case law deals with abolishing the position that the position and its duties are abolished, that to say you're abolishing the position and then putting in a new, you know forming a new post that's going to perform the same duties is...

Commissioner Hirschmann asked is contrary to law.

Deputy Solicitor Arnold stated is more form over substance certainly, and I don't think that...

Commissioner Hirschmann interjected my understanding was that by making it an appointed position, we were going to give the power to the Mayor to actually appoint somebody.

Chairman Dykstra stated right.

Commissioner Hirschmann stated but we aren't actually doing that.

Chairman Dykstra asked how can we do it. Can you tell us how we can do that?

Commissioner Cook stated there's some kind of delay. You could still do it.

Chairman Dykstra asked so how can we achieve that, to have him out in 2006 and have the next one appointed right away. How do we achieve that?

Deputy Clerk Johnson stated we can put verbiage in to do that. I mean, that's simple enough. The only thing that I guess that I would caution on this position that's different as well is there is a State law that states this is how you bring it from an elected position to an appointed position, and that talks about the term and therefore it makes an even stronger case about the fact that if you don't place this on the ballot until November and if that person is elected in November, they need to take office and fulfill their term because that's basically what that other law says, and it's specific only to the Welfare Commission position. That's all it deals with. Specifically the Welfare position. There's another section of State law that says you have to have an administrator of welfare. Okay, so you can't say that you're abolishing the administrator of welfare because you haven't abolished it, and you can't abolish it. The law doesn't really allow you to abolish it.

Commissioner Cook stated if you abolish one at a 9:59, and you establish the next one at 10 o'clock...

Chairman Dykstra stated I don't think it's going to probably pass legal muster at all if it's going to conflict with the State law.

Commissioner Hirschmann stated the committee is asking for direction, for legal direction.

Chairman Dykstra stated that's what he's saying. He's got to stay in for two years.

Deputy Clerk Johnson stated we don't have a problem.

Commissioner Shaw stated couldn't you have us go to the State to write the correct verbiage so that it would apply to State law.

Chairman Dykstra stated well, I don't have a problem with that.

Deputy Clerk Johnson asked you want to Mayor to bring in the appointment when that time expires.

Chairman Dykstra stated right, and we're wondering is that something that will pass legal muster when we send it up to wherever we're sending it. Is there going to be a problem there in reality?

Commissioner Cook stated we send it where we're sending it, if there's a problem, they'll tell us. That's why we have legal assistance.

Chairman Dykstra stated I know, but if it's going to be definitely a problem, I mean, why waste the time.

Deputy Solicitor Arnold stated I think mainly what we're talking about is my understanding, correct me if I'm wrong, is that if someone is elected to the office in November, they will serve out their term. If when that person serves out their term, rather than the present language having them automatically assume the office as department head, which they would essentially end their office, and the Mayor would make an appointment subject to confirmation. It could be the same person. It could be a different person.

Chairman Dykstra stated right, exactly.

Deputy Solicitor Arnold stated I think that is proper, yes.

Chairman Dykstra stated oh, okay. You could write the verbiage.

Deputy Solicitor Arnold stated we could draft language that provides the Mayor will bring in an appointment subject to confirmation as would be done with any department head.

Deputy Clerk Johnson stated November 22nd, 2005 is the day to do that.

Commissioner Hirschmann stated it gives him two years to think about it.

Deputy Clerk Johnson asked do you want to get a motion to...well, you don't need a motion.

Commissioner Pepino stated if it's open to interpretation...

Chairman Dykstra stated all right. They'll bring back the language on that.

Commissioner Pepino stated are we having a meeting here or what. What's going on here. Everybody's yacking around. I'm trying to say something. If this is going to be written by the City Solicitor's office, and...

Commissioner Shaw interjected let's move on.

Commissioner Pepino stated wait a minute. And it's going to be open for interpretation where a lawyer can sit and read it, and you can sit and read it, and I can sit and read it, it all means different things, we're in trouble.

Chairman Dykstra stated but that's why you have lawyers. They interpret things differently.

Commissioner Pepino stated let me finish. Please.

Chairman Dykstra stated yes. You're making a motion?

Commissioner Pepino stated if you get this in the records where we all read this, and we all understand it, we don't have a problem, but if it's open to interpretation, we're over on Chestnut Street. Thank you.

Deputy Clerk Johnson stated now if we go back to Section e) which was what we started with, then if we say, "All elected persons shall serve out their" we could say, "except for Aldermen At Large, all elected..." Oh well no, the first one is right. "All elected officials shall serve out their current term of office through January 6, 2004." That's everybody that's in now. "The Mayor, Aldermen, and other elected officials except for Aldermen At Large and Commissioner of Welfare..."

Commissioner Cook interjected and School Committee At Large.

Commissioner Hirschmann stated I wanted to add a sentence.

Chairman Dykstra stated wait a minute. Except for Alderman At Large and School Board At Large.

Deputy Clerk Johnson stated School Committee At Large and Commissioner of Welfare.

Commissioner Hirschmann stated I wanted to get recognized, cause I wanted a proper sentence added. I don't want to start a sentence with except. I would have a sentence say...

Deputy Clerk Johnson responded we're not saying except.

Commissioner Hirschmann stated all positions abolished by this Charter are not sworn or are not effective.

Deputy Clerk Johnson stated you could say that at the end.

Commissioner Hirschmann stated I want to add a sentence.

Deputy Clerk Johnson stated so you'd say any...well, but then somebody is going to...

Commissioner Shaw stated well, the Welfare one, you can't say that.

Deputy Clerk Johnson stated the Welfare one, you can't say that.

Chairman Dykstra stated well, we can just specify those.

Deputy Clerk Johnson stated we can just specify Aldermen At Large...

Commissioner Hirschmann stated you just said it's not abolished. I'm talking about positions that are abolished. There's a technicality there.

Commissioner Cook stated better than all positions abolished by this Charter, for specificity you would say...

Chairman Dykstra stated mention them.

Deputy Clerk Johnson stated Aldermen At Large and School Board At Large.

Commissioner Hirschmann stated put them in quotations.

Commissioner Cook stated or put them in quotations. It's just the ones that are abolished, all elected positions abolished to be very clear. There are other things that are abolished in this Charter also. Elected positions abolished by this Charter,

parentheses, Aldermen At Large and School Committee At Large or whatever won't be sworn in.

Deputy Clerk Johnson stated you want to state strictly Aldermen At Large and School Committee At Large.

Chairman Dykstra stated Aldermen At Large and School Committee At Large. If it's abolished, can we put in like they...how do you put that? They shall not be seated, or how is that verbiage?

Commissioner Hirschmann responded sworn. They don't take the oath is the way it says here.

Chairman Dykstra stated well, if it's abolished, you know they're not going to take their oath.

Deputy Clerk Johnson stated shall be considered abolished effective January sixth and no person shall take an oath of office for those offices.

Commissioner Hirschmann stated as clear as possible.

Chairman Dykstra stated and other elected officials shall take their oath of office, okay. So they're abolished, but the other elected officials shall take their oath of office. Is that your motion?

Commissioner Shaw so moved.

Commissioner Hirschmann stated duly seconded the motion.

Chairman Dykstra stated I just want to clarify. That's what your motion is. Okay, second by Commissioner Hirschmann. Any further discussion?

Commissioner Duffy stated my comment, Madame Chair, has to do with the fact that we're dealing with provisions in the Charter for transition when we haven't even agreed on certain elements within the Charter itself, so I think once again, we find ourselves jumping ahead.

Chairman Dykstra stated we've already voted on that.

Commissioner Duffy stated no, we have things that are still unsettled in the language of this draft Charter.

Chairman Dykstra stated right, but we've already voted on the...eliminated the Aldermen and School Board members At Large. That's what we're dealing with.

Chairman Duffy stated it's interesting that you jumped to those two things immediately without thinking about other thing that are...

Chairman Dykstra interjected Commissioner Duffy, there was a motion, and I resent the fact that you're accusing me of jumping ahead when I'm taking this gentleman's motion. Please.

Commissioner Duffy asked who has the floor.

Chairman Dykstra stated he had the floor, and we were just clarifying his amendment, his motion. I didn't make the motion.

Commissioner Soucy stated he was recognized.

Chairman Dykstra responded I recognized you because you wanted to speak.

Commissioner Shaw stated I'm kind of hoping that if we get the transition out of the way, if we get our concept out of the way, I have a sense that we're on the verge of compromise. This could be wrong. I might have just had a nightmare, but if, Commissioner Duffy, if we are this close to compromising on the main issue that faces us, if we can get past a certain number that will vote for you know whether it be 12 or partisan or non-partisan and by clarifying this particular point, I think we could be on the tip of coming together. That's why I made that motion out of sequence of the other. I think we're very close to it.

Chairman Dykstra stated okay, we have a motion and a second. Further discussion.

Commissioner Duffy stated Madame Chair, I'd just like to respond. I don't share Commissioner Shaw's expectations on this, but I would certainly respect the fact that you want to get this language clarified. My point simply is that we have issues that need to be addressed in the body of the Charter, independent of the transition going from the existing Charter to a new Charter and having agreed on that, then I think getting closure on transition, then it falls right into place. Here we're putting in language about how many Aldermen. We're putting in language about this, that, and the other thing that really haven't been finalized. That's my point.

Chairman Dykstra asked have they been voted on.

Deputy Clerk Johnson responded they were once, but...

Chairman Dykstra stated I mean everything in this document that has been voted on, we have to kind of go with what we've already voted on. The thing is is that this can still be changed, and that votes are going to be changed, but we've got to move along. We ended at transition, so it's not uncommon that we would kind of address transition, go back to the beginning, and we're going to go through this whole thing anyway. I'm going to call for a vote.

Commissioner Cook stated I'd like to know what the motion is because I don't know whether we're voting on the entire transition section or just the section you were just talking about.

Chairman Dykstra responded no, just that section. She'll clarify it for you.

Commissioner Cook stated I just want to hear what the motion is.

Deputy Clerk Johnson stated what I have written down now based on all the discussion was, "The positions of Aldermen At Large and School Committee At Large shall be considered abolished effective January 6, 2004, and no person shall take an oath of office for such positions."

Commissioner Cook asked and that goes at the end of e).

Deputy Clerk Johnson stated it goes at the end of e).

Commissioner Cook asked and that's in addition to e) as written here.

Deputy Clerk Johnson responded right.

Chairman Dykstra stated that was the motion. We had a second. We're going to have a roll call.

A roll call vote was taken. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted yea. Commissioners Cook, Duffy, Soucy, and Tessier voted nay. The motion carried.

Chairman Dykstra stated now, we're going to head up to the beginning of...this is a proposed Charter that you got in the mail today. Right? We just were sent, the one we asked her to...

Commissioner Cook stated we haven't...I'd like to know what the status of...we just going to start at the beginning and go all the way through...

Chairman Dykstra stated that's what he basically...

Commissioner Cook stated that's fine with me.

Chairman Dykstra stated you know, I accepted the motion. We went through with it. If the rest of this Commission feels, no one minds, we're going to start from the beginning. Go through. That is not a problem.

Commissioner Hirschmann asked what, again.

Chairman Dykstra stated very quickly.

Deputy Clerk Johnson stated they had communications too. Can I just...

Chairman Dykstra stated oh, the Board of Assessors are here. Welcome. Aren't you happy with what we did? I didn't read this, so you can give us a moment. We have this communication. We'll kind of just look at this quickly so they can leave.

Commissioner Hirschmann stated in contrary to State law, they were eliminated as officers, I guess. It says RSA 48-12 lists them as officers of the City.

Commissioner Pepino stated that's true.

Commissioner Hirschmann stated they're not in the new list.

Commissioner Shaw stated I thought we did, that they fell under the rule six.

Commissioner Hirschmann stated let's put them back in.

Chairman Dykstra stated they're still a department.

Commissioner Pepino stated I gave you people a list of City officers. They were in it, a month ago.

Chairman Dykstra asked do you want to address this. The City Solicitor is just going to address this. Go ahead.

Deputy Solicitor Arnold stated in the terms of RSA 48-12 sets forth the number of officers. However, that particular Statute, I think that they used the term "officers" more in terms of officials than officers in the term that you have defined it in the Charter.

Chairman Dykstra asked so, do you have a problem with what we have done.

Deputy Solicitor Arnold stated no, I do not.

Commissioner Hirschmann stated I'll make the motion that we put them back. They have been officers, so I'd make the motion we put them back as officers.

Commissioner Wihby duly seconded the motion.

Chairman Dykstra stated even though it means the same.

Commissioner Shaw asked what about removal.

Chairman Dykstra stated they're saying it still stays the same.

Commissioner Hirschmann stated it changes one more vote. It changes by one vote.

Commissioner Shaw stated no, it doesn't.

Commissioner Soucy stated yes, it does.

Commissioner Hirschmann stated it does as written.

Commissioner Shaw stated six.

Commissioner Hirschmann stated no, as written it's eight.

Chairman Dykstra stated okay, I've got a motion by Hirschmann, second by Wihby. We're going to discuss this.

Commissioner Soucy stated Commissioner Hirschmann is right. There are different provisions. Whether you are a City officer, it takes more votes to remove you than it does a department head.

Commissioner Hirschmann stated as we drafted.

Commissioner Soucy stated in the current draft. You are correct.

Chairman Dykstra stated when we discussed this, we talked about the department head removal. Then we changed it to go back to the same way that it was done for the other.

Commissioner Cook stated if I understand the proposal, we made a lot of changes as to the Board of Assessors because of this question, and we said that the Chairman of the Board of Assessors who is now appointed by the Mayor like all other department heads are appointed by the Mayor and confirmed by the Aldermen as all other department heads are confirmed by the Mayor [Aldermen], and the officers are now appointed by the Mayor and confirmed by the Aldermen, so that would be true of all three of them, regardless of whether they are officers or just assessors, whatever assessors would be under those circumstances, and I can see the point of what status do these other two assessors have if they're not the department head because the chairman is the department head, and they're members of the Board. What are they? But my understanding of, and I'm not trying to put words in his mouth but of Commissioner Hirschmann's motion is all this does is add the three assessors to the list of officers. It has no affect on any of those provisions we talked about, appointing them by the Mayor and ratifying and appointing one of them as chairman who is the department head, and it does add one or two or whatever it is votes for the removal process.

Chairman Dykstra stated it's a super majority then.

Commissioner Cook stated but that would be my understanding of your motion.

Commissioner Hirschmann responded correct.

Commissioner Shaw stated it's like having the 1996 Charter Committee meeting again. The same question came up at the end of our...

Chairman Dykstra interjected but you didn't have the swing vote last time.

Commissioner Shaw stated no, and I don't want the swing vote on this particular issue either.

Commissioner Cook stated but the difference Bob was, the difference was who appointed officers the last time, and that's why it was different. This time we changed officers to be appointed by the Mayor and confirmed by the Aldermen. That was the major distinction the last time, and that's been changed.

Commissioner Shaw stated well, the distinction for me was quite simple as far as officers went versus department heads, and so I would like to explain to you what I think is the distinction. I think the assessors are and one being the key one would be the department head. He's like the Police Chief, the Fire Chief, and all the other department, Highway. He's a department head, okay. The officers are those three positions who are the advice givers to the Board of Aldermen and to the

Mayor, and those advice givers in my opinion were the City Clerk, the City Attorney, and the City Treasurer, and that those positions need to have more protection not to be thrown out, you know.

Chairman Dykstra stated they're still in there, though.

Commissioner Shaw stated no, but the intent of this, the intent of this here...I favor that they could be officers. They could be whatever they wish to be, okay, on their letterhead, on their cards. Whatever they wish to be, they can be as far as I'm concerned, but the removal process for people whose task is administrative or whatever, they don't give advice to the Aldermen or to the Mayor. They do a task. They assess property. The Police Chief protects us from people.

Chairman Dykstra stated if they're still...you know, you still have three officers. There are still three officers. You still have one that's...one of the assessors is a department head. I mean, that's still a possibility. Is that the only thing we're looking at? Everything remains the same other than a majority to remove or to appoint, whatever, it's a super majority. So, it's one more, and that is all. Everything else stays intact. Well, let's clarify it. Is it or is it not?

Commissioner Shaw stated the Mayor doesn't vote when there are eight Aldermen. You see, some people will say the Mayor doesn't have a vote, Madame Chairman, but that's false. The Mayor has a vote in all cases of ties, and he kind of technically has a vote. When there are seven Aldermen in favor of something, we say the Mayor doesn't have a vote. No, he can't vote and be number eight, but he can be the one vote that eliminates them.

Chairman Dykstra asked is there any way that we can keep the vote the same.

Commissioner Shaw stated I think the power of the Mayor is necessary, Madame Chairman.

Chairman Dykstra stated just to take care of your concern, you don't have a problem with it, but you do prefer it to be a simple majority. Now, is there any way that we can keep this together, call them officers, make one a department head, and still make them only have seven votes in order to remove or appoint or whatever it was? Can we keep it the seven other than changing it? You know what I'm saying? I'm just asking.

Commissioner Duffy stated in Section 3.07, we have language in here that could be modified. If you're trying to say that assessors need the same protection as City officers in terms of removal. So you would modify that. Say for officers and assessors, removal shall be effective with confirmation and it mentions a super

majority. To go beyond that, I would think that that would address the concern. I know there were back and forth between whether we're looking for a simple majority for removal or a super majority for removal. And if we can, if the point is that gives that added protection, is that in fact what is being asked for?

Chairman Dykstra stated you're talking about all officers though. Are you talking about all officers?

Commissioner Duffy stated it says for officers.

Chairman Dykstra stated that's right, but what the concern is here is that these officers that we have now, you're called officers. They want to keep them officers. They want to be called officers. The concern Commissioner Shaw has is that he doesn't want to have eight votes. He wants to keep it to seven the way we had it when he was a department head. Is that correct, Bob? And that's what I'm saying. Is there a way that he can make an amendment to allow in the assessors' portion to keep it at seven votes.

Commissioner Shaw stated I thought we had done that.

Chairman Dykstra stated well, we had done it, but now they're changing it to officers, and when they change it to officers, it falls back to the eight votes, so in order to change that, we have to specify. Is that correct?

Commissioner Shaw stated I think having the word officer is not a problem. I think the problem is that other...why not have the Police Department chief be an officer of the City subject to the higher standards of removal? You see, what we were trying I thought was to have a strong Mayor form of government, where if we can get six votes, you know, and he becomes the seventh, it's better that he gets eight, but if he had six votes, he could remove a department head. He has to get the Aldermen's permission to do that. When it came to the other part, I thought there are people in this government, the City Solicitor's office especially who give opinions to different segments of the government that might not be in their best interest.

Commissioner Duffy stated I concur with what you're saying, Commissioner Shaw, I guess the reference to assessors as officers I think is what we seem to be hung up on, and I think your clarification is helpful. I guess the real, the only distinction I see is whether an officer that has a different removal provision needs to incorporate the assessors which accomplishes the same thing without necessarily calling them officers is my point.

Commissioner Cook stated we've got two things floating around here, and I'm going to add a third just to make it more complicated. We've got...

Commissioner Hirschmann interjected thanks.

Commissioner Cook stated but assessors perform a duty, a quasi-judicial function of coming up with assessments that someone could get mad about and want to get rid of them, so giving them the added protection of the eight votes is not a bad thing as officers. However, I agree with Commissioner Shaw, and this is where the enigma arises, and we may have to deal with. One of the assessors is a department head, and our strong Mayor system and his concern which I think is valid is that if the Mayor wants to get rid of somebody as department head, he should be able to do it with just a majority. People have two functions. Now, we've had this situation in City government before, and those of you who were there probably know it. One of the three assessors, if you can't get eight votes to get rid of them all, the Mayor should be able to undesignate one as department head and designate the other, subject to the approval, so you got two different functions. So the question is do you want to give the simple majority to designate one assessor as department head for removal purposes. To appoint him, it's just a majority anyway, but to undesignate him as department head but leave him as a member of the Board would take a simple majority. The Mayor could then put somebody else in as the department head, but to get him off the Board altogether, it would take eight votes because you're talking about two functions, and that when you talk about 1996 Charter, that's when we got in a circle and kept running around. That's the duality of function. Unfortunately, there's merit to both of them depending on which function you're talking about.

Chairman Dykstra stated the way it is under 3.07, it still lists department head which one of the assessors would be, so that wouldn't need the eight votes. So what would happen with the other assessors? Would they be a seven?

Commissioner Cook stated no, they'd all officers.

Chairman Dykstra stated I mean that's what I would think they would have to be.

Commissioner Cook stated they'd all be officers and have eight votes, but if you undesignate the department head, one would seven.

Chairman Dykstra stated but here it says department head, so that's the confusion. You have a department head who is an assessor. That's the thing.

Commissioner Hirschmann stated you're making the department head less important than the employees that work with him for removal. I'm just saying you're inverting it, so it's easier to get rid of a department head than...

Commissioner Cook stated you can't get rid of him. He's just not the department head more. He's still an assessor.

Commissioner Hirschmann asked says who. It doesn't say that anywhere.

Chairman Dykstra stated it says department head or assessor.

Commissioner Cook stated that's because you've got two different states.

Commissioner Hirschmann stated we're getting muddled down in this.

Chairman Dykstra stated it always does.

Commissioner Pepino stated I have a question. If it only takes seven votes for the Board of Mayor Aldermen to get elected assessor, why does it take eight to remove him? If it takes seven to do the job, why take eight to get rid of him?

Chairman Dykstra stated it makes it harder to remove, I guess.

Commissioner Pepino stated if there's an assessor you don't like, he has two or three year terms. When he finishes his term, they won't appoint him.

Commissioner Hirschmann stated I would say that the person that becomes the department head also is sworn as an officer. The other two guys don't have to be officers.

Chairman Dykstra stated I think they should all be.

Commissioner Soucy stated then the other guys can be removed by the department head.

Commissioner Pepino stated the Mayor can get rid of one. He can't get rid of the other two.

Chairman Dykstra stated they all have to be assessors.

Commissioner Hirschmann stated okay, let's get to the logic. Right now, we're working under the 1996 Charter. They're all officers now. How easy is it to get rid of them now?

Commissioner Cook stated it's tough.

Commissioner Shaw stated it takes ten votes.

Commissioner Hirschmann stated okay, well let's stay with it. Just revert to the 1996 language. What's so hard about this?

Commissioner Shaw asked you want ten.

Commissioner Hirschmann stated we've got to change that.

Commissioner Cook stated not ten, it would be eight.

Commissioner Hirschmann stated it would be eight.

Chairman Dykstra stated so why don't we instead of the ten, leave it at the eight then. Make a compromise. Bob, compromise. I mean, instead of ten, eight.

Deputy Clerk Johnson stated the motion on the floor is to make them officers, and that would leave them as eight votes to remove, and we would just take all the language that's in there for assessors, and we will move that to the officers, and list them as officers.

Chairman Dykstra stated it's going to be very confusing, Bob.

Commissioner Pepino asked what's wrong with that.

Commissioner Shaw stated the last Charter that was written after we'd kind of left the whole thing, and then people started correcting the language, and that's when the language came in. The original intent which some people probably didn't go along with, the original intent was that department heads had to have the votes to keep their job. It got reversed somehow in translation. I won't accuse any people of doing that.

Commissioner Pepino interjected lawyer's language.

Commissioner Shaw stated lawyer's language allowed the Mayor could basically not get rid of anybody because he needed ten votes to get rid of them where the intent was they needed ten votes to keep their job. That was the intent. So, we come to this part here. We didn't go back to the 1996, Madame Chairman. What we said was that the Mayor has six votes to eliminate somebody. He gets to vote because it's a majority of the Board of Mayor and Aldermen which is seven.

That's not seven Aldermen. That is six Aldermen and the Mayor. Be clear about that. I hope you understand that part of it. The majority of the Board of Mayor and Aldermen is not, because if the majority of the Aldermen didn't go along with him, he could veto their action, you see. He has a vote. What I was trying to do, what I thought we were trying to do is make a strong Mayor form of government. That allowed the Mayor along with the consent of six Aldermen to eliminate a department head.

Commissioner Cook stated let me just ask the question. You've got three assessors, all of whom a Mayor has nominated, and the Aldermen have confirmed, one of whom has been named department head, same drill. What are the other two?

Chairman Dykstra responded they're assessors.

Commissioner Cook stated they're not department heads.

Commissioner Hirschmann stated they're employees.

Commissioner Cook stated they are members of the Board of Assessors. They are employees, but they're just employees of the City who happen to be members of the...I mean, that's okay, but I mean, the question is up till this time, they have always been officers of the City. Under this one, one of them is a department head, but not an officer of the City. Two of them are something, and it should be clear what they are if it's going to be the other way. And I think we should be clear as to that.

Commissioner Shaw stated I thought we were going to be clear that they should be City officers, and they're subject to the same rules for dismissal as department heads. They were different. In other words, we had three officers that were subject to the eight rule, and we have three assessors who are City officers who are subject to the removal process for department heads. I thought that was the direction we were going. I thought that's where we were going. Not because they're any less important than anybody else. They're no less important than the Police Chief, okay, and if what was good for the Police Chief...

Commissioner Hirschmann stated so then why don't we make removal seven for everybody. The Mayor is the guy that's bringing it in.

Commissioner Shaw stated it's the majority of the Board of Mayor and Aldermen.

Commissioner Cook stated but not for officers.

Commissioner Hirschmann stated but for officers, why don't we go to seven.

Commissioner Pepino stated I made that motion, and I couldn't get a second on it.

Commissioner Shaw stated I know you have. I have no problem with officers being removed with a lesser number. I was thinking strictly in terms of protection for people who have to give advice to two separate bodies and therefore needed slightly more protection than others. The Police Chief doesn't give separate advice to the Mayor and the Board of Aldermen.

Commissioner Hirschmann interjected oh, yeah.

Commissioner Shaw stated well, I hope not, but the City Attorney could give advice that is detrimental to his keeping his position by favoring one group over the Mayor's office. That was my intent.

Chairman Dykstra stated any further discussion. We have a motion and a second.

Commissioner Cook stated the motion right now is to make them officers.

Deputy Clerk Johnson stated to make them officers. That would be subject to the removal of eight.

Commissioner Cook stated okay, and then we could make a subsequent motion to make all officers removed by seven also if we wanted to.

Chairman Dykstra stated we could do that. We're going to take a roll call vote and this is to make all of the assessors officers, just to make sure we know what we're voting on.

Commissioner Hirschmann state I mean, they are now, so...

Commissioner Shaw stated he has a point to make them all, everybody equal.

Commissioner Cook stated but that's a subsequent motion.

Chairman Dykstra stated we're going to take a vote on this. We're going to call the vote. This is the motion to make them all officers, to keep them officers. I mean, that's what they are I guess.

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Pepino, Shaw, Soucy, Tessier, Wihby, and Dykstra voted yea. The motion carried.

Chairman Dykstra stated all right, any further motions.

Commissioner Cook stated I would make a motion that we have to test out this proposition that we just discussed, that the removal process for officers be changed from eight to seven, a majority of the Board of Mayor and Aldermen.

Deputy Clerk Johnson stated that would be six votes of the Aldermen.

Commissioner Cook stated Board of Mayor and Aldermen.

Deputy Clerk Johnson stated that would be six votes of the Aldermen.

Chairman Dykstra asked six of Aldermen elected.

Commissioner Cook stated same as the department heads. Whatever the department heads is, I want it to be the same.

Deputy Clerk Johnson stated so six votes of the Aldermen will remove officers as well is what you're saying.

Commissioner Cook stated make it the same as department heads.

Deputy Clerk Johnson stated eight to BMA.

Chairman Dykstra stated six including the Mayor.

Commissioner Cook stated I just want to see how the Board feels on this.

Commissioner Hirschmann stated why not.

Chairman Dykstra called for a vote. The motion carried with Commissioners Wihby and Soucy duly recorded in opposition.

Chairman Dykstra stated okay, now we're going to start from where we were going to start. Right? Why don't we just go along. Wherever you want to jump in.

Commissioner Duffy stated Madame Chair, then if we're going to start going through the draft dated April 8, that's the one that was handed out to us earlier...

Chairman Dykstra asked what page are we on.

Commissioner Duffy responded we're on page two. 2.02. I'd like to preface my motion by saying that the last Charter Commission, 1996, certainly was able to accomplish certain things in terms of moving the process of government for the City in a positive fashion. There were certain elements that I'll address later that weren't as positive, but one of the more important things they did was introduce the concept of At Large members for the Board of Aldermen and for the School Committee. I think that this particular Commission by eliminating those At Large positions is doing a disservice to the citizens of this City. This is a very critical element in terms of maintaining those At Large positions. We need people that can in fact look at this City in its entirety and not be hung up on individual ward issues. We need that kind of guidance, and we need people in City government that in fact will take that kind of a view of City government, particularly in light of the many changes that we are facing and number of important matters that are coming before the Board of Mayor and Aldermen. Therefore, I am moving that we restore in our Charter, restore in this particular case, we're talking the Aldermen. The School Committee comes at a later point in the Charter, so for this provision, I'm going to make the motion to restore the two At Large positions for Aldermen, the Board of Aldermen.

Commissioner Cook duly seconded the motion.

Chairman Dykstra asked do I have some discussion. I am going to wait for Commissioner Pepino.

Commissioner Tessier stated move the question.

Chairman Dykstra stated I am going to wait for Commissioner Pepino.

Commissioner Hirschmann stated I'll give you discussion if I can be recognized. I think this is the fourth time that we've taken this up, and it's almost to the point, it's like a filibuster. I don't understand that we're going to vote on this four times during our Charter review and come out with four different outcomes. It just seems like a filibuster point to me. I mean, we voted on it. Mayor Shaw brought us his own Charter vision, and it had 12 Aldermen, and that's what's before us, and that's what was voted on last time. I can't see changing it a fifth time.

Chairman Dykstra stated I certainly when I was on before I did vote against it. I feel I'm consistent. I just feel that as an Alderman from Ward 6 or any other ward you're from that when you vote on the budget, you vote on contracts, you vote on important projects like a civic center, an elderly center, this affects the whole City, so I really believe that Aldermen in wards not only take care of the people in the wards, but they do have a vision for the City, and I know that I did as an Alderman, and many others have, so having sat in that seat, I certainly did not

support the additional Aldermen and find over the years that there hasn't been much need for them, so everybody has a right to their opinion. If there's no further discussion, we certainly are going to take a vote again.

Commissioner Pepino asked what are we voting on.

Chairman Dykstra stated Commissioner Pepino, let me just clarify. Commissioner Duffy has made a motion to add to the 12 Aldermen, add the Aldermen At Large, so add it to 14 again. So if you vote yes, you're going to be voting for 14. If you vote no, you'll stay with the 12. I'm going to ask for a roll call vote.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Chairman Dykstra stated five to four. The 12 stay. Okay, we're going to move on. Anything else anybody wants to address?

Commissioner Duffy stated Madame Chair, on page five, Section 3.03, this is more of a suggestion relative to readability. Section 3.03, Boards and Commissions of departments. I would suggest that in order to assist the person reading this that instead of going to item a) which goes into membership so on and so forth that we start by bringing forward the three departments that are identified as the exception. That is, in other words, the Airport Authority, Water Commission, and Elderly Services as a), b), and c) because then you could follow with d) which covers all of those. I think it just, as I was reading through this, it just made more sense to me to have it presented in that fashion.

Deputy Clerk Johnson stated just to understand it, you just want to put Airport Authority as a), Water as b), Elderly as c), and then a) would be d).

Chairman Dykstra stated put the other one after.

Commissioner Duffy stated right, okay, and the second thing for clarification is that we discussed this last week, and we're going to bring it up again. In both the Airport Authority and in Water Commission, there's a term that says, it's pertaining to the Mayor, duties vested in other members "consistent" with the term of office. I believe the word again should be "coincident". We're talking time frame rather than, and again I'll defer to the Webster's Dictionary on this or a law dictionary if you'd like, City Solicitor, but I think it's coincident rather than consistent.

Chairman Dykstra stated and duties vested in other members...what was the word you wanted to use?

Commissioner Duffy responded coincident with the term of office. We're talking about a time frame.

Commissioner Cook interjected they coincide.

Commissioner Duffy stated to coincide with.

Chairman Dykstra stated oh, coincidence, okay. Coincide.

Commissioner Cook stated that's not coincidence like coincidence...

Chairman Dykstra stated okay, that's what I'm saying, coincide, okay.

Deputy Clerk Johnson stated coinciding maybe.

Chairman Dykstra asked is coincide, is that going to be a...

Commissioner Tessier stated I think the term is coincident.

Commissioner Cook stated no, coincident, d-e-n-t, not coincidence, d-e-n-c-e.

Commissioner Duffy stated right.

Chairman Dykstra asked does anybody have a problem with that. Anybody? Okay, we'll just go with it.

Deputy Clerk Johnson stated we'll just do that.

Chairman Dykstra stated as we're going through here...

Commissioner Duffy asked are we ready to move along, then.

Chairman Dykstra stated well, you know, whereas you're mentioning that, I just wanted to just ask a question here. In authority, on the same page six...

Commissioner Hirschmann asked are you taking a motion on that change.

Chairman Dykstra responded no. Did anybody...nobody had a problem with it. Coincident. To just change that one word.

Commissioner Duffy stated it's wordsmithing, okay.

Chairman Dykstra asked what do you want...did you want to make a motion.

Deputy Clerk Johnson stated you're just changing the order. You're not changing the verbiage at all.

Chairman Dykstra stated we're not changing anything. We're just, yeah, the order. Anybody have a problem with the order? He just changed the order of the Airport Authority. He made them a), b), c). That's the only thing. I mean, nothing has changed. What I wanted to question, just to clarify...

Deputy Clerk Johnson stated you're still having the first sentence stating they're all about.

Chairman Dykstra stated right. On page six where it says the Commissions shall continue to consult, advise, and make policy recommendations to department heads and Board of Mayor and Aldermen on matters appropriate to the department. The second line, it says the commission may advise. Now, Tom, I'm going to ask the City Solicitor. When you see 11) in there, does it mean that they're going to consult, advise, and make policy whether the head of that department wants them to or not, say the head of the Airport Authority. To me, it seems like shall continue to consult. I mean, are they going to consult, advise, and make policy whether the Airport Authority...I don't like that because it's contradictory I think with the next...

Deputy Solicitor Arnold stated maybe you want to say to consult, advise, and suggest policy recommendations.

Chairman Dykstra stated say, commissioners.

Commissioner Pepino interjected may.

Deputy Clerk Johnson stated they want to say may continue to advise.

Chairman Dykstra stated I don't want it because what that's saying is that the Commissions whether that Airport Authority director wants it or not, they're going to be making policy. They're going to be advising and consulting, and to me, that mandates.

Deputy Clerk Johnson stated only to him.

Chairman Dykstra stated only to him, but still, if he doesn't want it. I mean, I don't feel that they have to give it if he's not asking for it. I mean, "Commissioners may continue to consult." Would that be appropriate?

Commissioner Pepino stated just change the one word.

Commissioner Soucy stated can I ask a question of the Solicitor though. Even if the language stated shall, the department head is under no obligation to take the advice or to accept the policy. It's still ultimately the department head's decision, but I think the purpose once again for some of the Commissions is to have a point, counterpoint. If you have a department head who is heading off in a direction that may not be in the best interests of the City and that's what your Board or Commission thinks, you don't agree that there should be a check or a balance on a department head?

Chairman Dykstra responded no, no, I think that, yes I certainly do, but I think that it could be a problem if there's a head of an authority, and these people basically are going to advise whether they want it. Now, in other instances, we have the Board of Mayor and Aldermen to get advice from them if they so wish to get advice from them, and I feel that that should be the same way with the departments or the department heads. So, right now, it's saying that they can, so right now, say the head of the Airport Authority says, "No, I mean we're pretty well set with this. We're going to bring it to the Board of Aldermen, this and that. No, well, we're going to set policy." And even if they set the policy and the department head says, "No, I don't want to", it's still out there, so I have a problem with it.

Commissioner Duffy stated Madame Chair, excuse me again, we're talking about the Board. We're not talking about an individual here.

Chairman Dykstra interjected that's right. That's what I'm saying.

Commissioner Duffy stated we're talking about in number 12, upon the request and so on, they shall make advisory...

Chairman Dykstra interjected no, 11.

Commissioner Duffy stated I know, we're talking 11, but there is ample opportunity if you read all of these to understand what's happening here.

Chairman Dykstra stated well, I just think it's contradictory when you have 11 says shall and then in 12 says may. That's my concern.

Commissioner Cook stated Madame Chairman, I think what the shall here means that they continue, the Commissions continue.

Chairman Dykstra interjected to consult, advise, make policy.

Commissioner Cook stated they shall continue. They only continue with the power that we've given them in here, and the power that we've given them in here is very clearly not mandatory. So, I think the shall talks about the fact they continue, not that they may continue because if you say they may continue, they may not continue, and our intention is that these Commissions will continue, so due respect, I understand your concern that we not make somebody think that we're mandating that they do something we haven't given the power to do, but I don't think that does because all they shall continue to be able to do is what we've given them the power to do.

Commissioner Duffy stated it says advise.

Chairman Dykstra stated the City Solicitor, do you feel that that would be a problem or a contradiction. I have no problem. I was just asking as clarification on that.

Commissioner Pepino asked is that the same language as the last Charter.

Chairman Dykstra responded I don't know. I really don't know.

Deputy Clerk Johnson stated will continue.

Chairman Dykstra stated all right, other than may, we could put will continue, so I would like to make a motion.

Commissioner Soucy stated no, leave it at shall.

Chairman Dykstra stated no, the City Solicitor said that will would be appropriate.

Deputy Solicitor Arnold stated what I said is will might be an appropriate word. I didn't say that shall is not an appropriate word. I think that this paragraph clearly provides that they can make recommendations.

Chairman Dykstra stated it doesn't mandate it though.

Deputy Solicitor Arnold stated it does not mandate.

Chairman Dykstra stated okay, that's what I want.

Deputy Solicitor Arnold stated I should say it doesn't mandate that the department head accept their recommendations. They're made in an advisory capacity.

Chairman Dykstra stated then I'm going to make a motion to change that to will. The Commissions will continue, and second by Commissioner Pepino. Any further discussion?

Deputy Clerk Johnson asked did you want to change make to suggest. Instead of make policy, suggest policy.

Chairman Dykstra asked where is that.

Commissioner Duffy interjected make policy recommendations. It's not making policy. It's making recommendations, so I think we're getting hung up on the wordsmithing here.

Commissioner Hirschmann stated get the word policy out of there.

Chairman Dykstra stated okay, so I'm going to make a motion that Commissioners will continue to consult, advise, and suggest policy. So, I'm going to add those two words, will and suggest. I got a second by Commissioner Pepino. Any further discussion?

Commissioner Hirschmann asked where are you placing suggest.

Chairman Dykstra responded and suggest policy recommendations. Right here. Any further discussion? Hearing none, we'll take a vote. All in favor? Aye. I think we...should we have a roll call on this?

Deputy Clerk Johnson responded sure.

Chairman Dykstra stated let's have a roll call. All right, so we're just going to change shall to will and make to suggest. Okay, all right. All in favor of changing that language to will and suggest. It's going to be a roll call. A yes would be supporting it.

A roll call vote was taken. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted yea. Commissioners Cook, Duffy, Soucy, and Tessier voted nay. The motion carried.

Chairman Dykstra stated that passes. Okay, we'll keep on moving along. Is there anything else that you see in here that you need to change?

Commissioner Duffy stated Madame Chair, on 3.04...

Chairman Dykstra stated wait a minute. Just for a moment. There's 2.06 first. We'll do that. He wants to address 2.06, then we'll go.

Commissioner Hirschmann stated I would like Section 2.06, meetings, item d). I would like it to say public comment at all meetings rather than regular meetings. I don't like that.

Deputy Clerk Johnson stated all meetings would be with special meetings and public hearings.

Chairman Dykstra stated that's testimony, committee meetings. That would include committees too.

Commissioner Hirschmann stated let me hear it.

Deputy Clerk Johnson stated item d) is referring merely to meetings of the Board of Mayor and Aldermen, not to the committees, cause committees are covered up above. So the public comment at regular meetings would be all regular meetings of the Board. If they hold a special meeting to discuss baseball...

Commissioner Hirschmann interjected right. That's exactly my point, and they may want to have a meeting and take a vote on something important. So the public would have an opportunity to speak before their special meeting. Then they could have their special meeting and vote. So, I'd like to change this to all.

Deputy Clerk Johnson stated okay, but do you also...

Chairman Dykstra asked but wouldn't that committee vote go to the full Board.

Deputy Clerk Johnson stated can I finish. Can I finish what I started to say before...

Commissioner Hirschmann stated absolutely, go right ahead.

Deputy Clerk Johnson stated you also have meetings such as public hearings on zoning amendments and so forth which would be normally the public comment on that issue that's before them, not on other matters.

Commissioner Hirschmann stated it should be relevant to that.

Deputy Clerk Johnson stated right, and I guess that's my question. If you're going to say all meetings, is it your intent that at a zoning hearing, they're going to take public comment on baseball? I don't know.

Commissioner Hirschmann stated my problem with this whole section is the way that it's laid out is it's leaving it open for an end run that anybody that wants to have a special meeting on whatever they want, the public can be bypassed. All they have to do is call for a special meeting on toasters and what voltage they should be, and then the public could not speak or comment.

Chairman Dykstra stated at every regular and special.

Commissioner Pepino duly seconded the motion.

Commissioner Tessier asked could you read the motion please.

Deputy Clerk Johnson stated he's saying instead of at every regular meeting, he's saying at all meetings.

Commissioner Hirschmann instead of regular meetings, change to all meetings.

Commissioner Cook stated or just meetings, at meetings.

Chairman Dykstra stated it doesn't mean people are going to be there, just that they can be there.

Commissioner Hirschmann stated they have the opportunity.

Commissioner Shaw stated well, how will we know that the people that were to speak at the baseball meeting here would speak about baseball. How have you restricted it? When you say that they can have public comment, it could be on anything.

Chairman Dykstra stated no, it has to be germane.

Commissioner Soucy stated that doesn't say that.

Chairman Dykstra responded then we can say that because...

Commissioner Hirschmann asked can you word it so that it says that.

Deputy Clerk Johnson responded if that's your intent, then we can add it in.

Chairman Dykstra stated Commissioner, you talk about the State level. You know darn right that when you go and speak on a certain bill, you're not going to talk about the plumbing at City Hall. You're going to talk about the issue before you. Now, that's the whole thing. If you want to clarify that.

Commissioner Shaw stated I feel that the Aldermen speak as a Legislature in session and not as a committee. I favor strongly that everything the Aldermen do be sent to a committee where public testimony be allowed.

Chairman Dykstra interjected we have that in there. We do have testimony.

Commissioner Shaw stated you see, that's what we're trying to do, and you get away from the concept that these Aldermen out here are a committee. You know, they're a legislative body. When you allowed them the thing of you can come in here and just tell them anything they want, Alderman, you say that, but basically a committee wants to have something germane to the subject. Now if the Aldermen were to adjourn and become a committee, then I believe like you do, they must accept testimony, but they aren't a committee. They're a Legislature.

Chairman Dykstra stated, Commissioner, wouldn't you think that the chairman of that committee has a right to only take information on the subject discussed or brought forth. I would think they would have that power, wouldn't they?

Commissioner Shaw stated that's what testimony means.

Deputy Clerk Johnson stated that's not what that says.

Chairman Dykstra stated no, I'm just saying if there's a way we can do that. I mean, I understand what you're saying.

Commissioner Shaw stated but he wants the Aldermen to be a committee all the time. I'm saying to you that at some point in this discussion, we have to get the concept that the Aldermen are a committee out of our mind and find that they are the legislative body of the City of Manchester.

Commissioner Hirschmann stated if I could be recognized. I'll tell you exactly what's going to happen, okay. A matter is going to come before the Board, and they're not going to want public comment before their special action that they want to take, so they're naturally going to have the Mayor call for a special meeting, so that the public cannot talk. The Aldermen will have their special meeting. Bang, second, third, done, no public testimony.

Commissioner Shaw stated can't pass it. Can't pass it.

Commissioner Hirschmann stated I'm telling you it's going to happen.

Commissioner Pepino stated he's right.

Commissioner Shaw stated you can't pass it because in the Charter it says it must lay on the table till the next meeting.

Chairman Dykstra stated okay, we do have that motion. Continued discussion.

Commissioner Pepino stated let me ask you something. When they have public comment at the meetings, and when they get all done, the Mayor says, "We shall take these things under advisement." Now, I don't know how many years you were there or you were there, myself and you. How many times have you ever sat down and said, "Well, this is what the public said. What are we going to do with it?" Zero. They put them right in the can. They listen. You'll see the Aldermen make funny faces and stuff like that, but you don't hear that. Like you say, it's true. I hate to say this. I hate to say this...

Chairman Dykstra stated say it, say it.

Commissioner Pepino stated Commissioner Shaw sat here one night a month or two and he says this is how these public comments should be. You sit here. You write a letter down. You got a problem, for baseball. You write a letter down, going to the next meeting next week. You write a letter down, and you send it in. They look at your letter, and they call your name. You come down and talk. You're on the subject. He made that motion because that was the way it was presented to the Board in 1978. That's where he got that from. You people said well, something might come up tomorrow, might come up yesterday, so you voted it down. Now, you're back to the same thing again.

Chairman Dykstra stated any further discussion.

Deputy Clerk Johnson stated we have some language for you.

Chairman Dykstra stated she's brining forth some language just for your consideration.

Deputy Clerk Johnson stated if I understood it right, he wanted the verbiage for the special meeting. A period of public testimony shall be provided at all special meetings of the Board. Testimony shall be limited to the subject for which the meeting is held.

Commissioner Hirschmann stated that solves it for me.

Deputy Clerk Johnson asked is that what your intent was by saying all meetings.

Commissioner Hirschmann stated yes, I just didn't want the ability to bypass.

Deputy Clerk Johnson asked so do you want to take back your motion and restate your motion as this.

Commissioner Hirschmann responded yes.

Chairman Dykstra asked what happens to the way d) is now Carol.

Deputy Clerk Johnson stated d) would read, "At every regular meeting of the Board of Mayor and Aldermen, the Board shall provide a period of public comment. A period of public testimony shall be provided at all special meetings of the Board. Testimony shall be limited to the subject for which the meeting is held."

Commissioner Cook stated so we should change the title from, you would change the italicized part from public comment at regular meetings to public comment at meetings because you're covering regular meetings in the first sentence, and special meetings in the second sentence.

Chairman Dykstra stated at meetings. Okay, that's a good idea.

Deputy Clerk Johnson stated so that was Commissioner Hirschmann originally.

Chairman Dykstra stated by Pepino.

Chairman Dykstra called for a vote. The motion failed with Commissioners Cook, Duffy, Shaw, Soucy, and Tessier duly recorded in opposition.

Chairman Dykstra stated okay, Shaw, Cook, Soucy, Duffy, and Tessier.

Commissioner Soucy stated that would be five.

Chairman Dykstra responded yeah, I can count to five. Thank you. Five to four. Okay. That will stay the way it is, I guess.

Commissioner Hirschmann stated I'm going to go back to it.

Commissioner Duffy stated Madame Chair, may I move us forward to 3.04. Again, first of all, it's more of an assist in readability. Instead of starting with a), I would suggest we put a) down underneath the list of departments and start with, "All Boards and Commissions not related" and so on and so forth. Then, go through a), b), etc. See what I mean, Carol? I'm just saying take that first sentence which you have identified as a) and put it below, bring it down and start that particular paragraph or that section with, "All Boards and Commissions".

Deputy Clerk Johnson asked so where are you putting the first sentence of a).

Commissioner Duffy responded I'm putting it underneath the list of departments or Boards and Commissions not related to departments.

Deputy Clerk Johnson stated so, a) will start with, "All Boards and Commissions". Then, you would have the listing.

Commissioner Duffy interjected no, you don't need a) of it. You just don't identify that.

Deputy Clerk Johnson stated we do because we have the underneath. You have to identify it. Well, I think if you go to, let me use as an example the previous paragraph, 3.03. You don't start with an a). You start with a sentence.

Chairman Dykstra stated okay, is that a motion.

Commissioner Duffy stated that's a motion.

Commissioner Cook duly seconded the motion.

Chairman Dykstra called for a vote.

Commissioner Hirschmann stated it's 5-4, he lost.

Commissioner Tessier called for a roll call.

Chairman Dykstra stated Leo, don't go yet. We have a roll call. Just the order of the way this is written. Can you explain it to him, Carol?

Deputy Clerk Johnson stated I just want to make sure I'm clear that I know what he wants. So a), you're eliminating.

Commissioner Duffy stated we're not eliminating it.

Commissioner Soucy stated excuse me. There are conversations going on that aren't even members of the Commission. Could people please speak one at a time?

Chairman Dykstra asked who, who's that.

Commissioner Soucy stated there are four conversations going on. I'm sitting next to Commissioner Duffy and having difficulty hearing what he's saying.

Commissioner Pepino stated just say it like I did. Hold it.

Commissioner Hirschmann stated I thought the motion failed.

Deputy Clerk Johnson stated I'm a little confused. I just want to clarify what I'm doing here. You wanted to take the other Boards and Commissions and move it down underneath where the listing is. Am I right?

Commissioner Duffy responded yes.

Deputy Clerk Johnson stated that first paragraph you don't want to have a). Where is a) going?

Commissioner Duffy stated a) is, as I indicated here Carol, to be consistent to what we did in the previous paragraph, it's nothing. It's purely consistency.

Deputy Clerk Johnson stated so all of this was a). So, you're just saying this one sentence will now become a)?

Commissioner Duffy stated just that one sentence, bring it down below the list of...

Deputy Clerk Johnson asked with the letter a).

Commissioner Duffy responded yes, with the letter a).

Deputy Clerk Johnson stated okay. That's where I was confused. I didn't know if you were renumbering below it.

Commissioner Duffy stated no. It's nothing as complex as that.

Deputy Clerk Johnson stated because I can't see that from across the table.

Commissioner Duffy stated with that accomplished, then I would like to address the issue that I raised relative to the minutes from last week's meeting.

Deputy Clerk Johnson stated she tried to take that as a motion.

Commissioner Duffy asked is that necessary to take a motion on that.

Chairman Dykstra responded I would think so.

Commissioner Duffy stated all right, I make it as a motion then.

Commissioner Tessier stated I'll second it.

Commissioner Pepino stated we already had a motion.

Chairman Dykstra asked Commissioner Pepino, are you ready to sit in your seat.

Commissioner Tessier asked do we have a motion on the floor already, Carol, on this.

Chairman Dykstra stated there's a motion and a second.

Deputy Clerk Johnson stated there was a motion and a second, I thought.

Commissioner Hirschmann stated there was a vote also.

Commissioner Cook stated yeah, but it wasn't clear, so they wanted to do a roll call. I mean, Carol wanted clarity on what it was about.

Chairman Dykstra stated well, Commissioner Pepino was walking off so...

Deputy Clerk Johnson stated so we're just talking about movement of language.

Commissioner Cook stated it's the same language. You're just moving it around.

Deputy Clerk Johnson stated I'm just moving it around.

A roll call vote was taken. Commissioners Cook and Duffy voted yea. Commissioners Hirschmann and Pepino voted nay.

Commissioner Shaw stated I'm getting instructions.

Chairman Dykstra stated that's good. I'm glad you're listening to somebody.

Commissioner Cook stated I'm not telling him how to vote. I'm telling him what he's voting on.

Chairman Dykstra stated that's okay Brad.

Commissioner Cook stated because if I told him how to vote, he'd vote the other way.

Chairman Dykstra stated I don't know about that. It's just to change all this around, the way she put it in. He's changing it.

Commissioner Shaw asked there's not a word change.

Commissioner Duffy stated no word change. Nothing is changed. It's just moving.

Deputy Clerk Johnson stated he's just changing the order.

Commissioner Cook stated structure of it, so it's not so confusing when you look at it.

Chairman Dykstra stated I'm not confused.

Commissioner Tessier stated so there's consistency with the one before it.

Commissioner Shaw stated I'm going to vote to change it.

Deputy Clerk Johnson stated that would be a yes.

The roll call vote continued. Commissioners Shaw, Soucy, and Tessier voted yea. Commissioners Wihby and Dykstra voted nay. The motion carried.

Deputy Clerk Johnson stated we have five yeas, four nays.

Chairman Dykstra stated it passes.

Commissioner Duffy asked may I continue on, Madame Chair. Referring back to the minutes from last week's meeting. This is the area of that confusion.

Chairman Dykstra stated okay, that you had tabled before.

Commissioner Duffy stated the table of Boards and Commissions not relating to departments existing at adoption are as stated herein, and it goes through listing them. The point that Commissioner Soucy was making last week is that among these various Boards and Commissions, there are selected ones that have a quasi-judicial function. Among them being Board of Assessors, Board of Adjustment, Planning Board, and there may be others, and I'm asking for some guidance from the City Solicitor and the City Clerk as to whether it makes sense to differentiate those in terms of the term of office.

Deputy Clerk Johnson stated Tom can speak for himself. I guess what we did is we set it up so you did not have to specifically set it up for every single one. Whatever the Statute or a contract calls for, that is what will be precedence. If not, it will be a three year term which is the same way as what the current Charter does. If you're talking about terms...

Commissioner Duffy stated I know, but our current experience is that we are running into situations now that that Charter has been in effect for six plus years where we are losing some valuable members of some of these Boards and Commissions that the institutional memory is critical in terms of applying City ordinances in a fair and consistent fashion.

Deputy Clerk Johnson stated so what you're talking about is not having, removing the consecutive term limitation in order to...

Commissioner Duffy stated I would suggest that's one way of modifying it.

Deputy Clerk Johnson stated I know of no other way of modifying it.

Chairman Dykstra stated so they could run forever.

Commissioner Duffy stated let's assume that that's the only way.

Deputy Clerk Johnson stated the only other...well, I shouldn't say that because you could make those terms longer. That would be another option.

Commissioner Duffy stated that's the other option.

Chairman Dykstra stated but there are some terms that are dictated by State law.

Deputy Clerk Johnson stated we would have to have somebody research.

Chairman Dykstra stated we know that the Water Commission and some of the others are five years, I guess, or whatever.

Deputy Clerk Johnson stated we would have to have somebody research out exactly which ones were which if you were going to change the terms. If were merely going to eliminate the consecutive term limitation for those particular boards, that might be an easier way to accomplish what you're saying.

Chairman Dykstra stated so you're saying that two three year terms isn't enough time for a person to serve.

Commissioner Duffy responded in some instances, it takes a full term to really get up to speed, quite honestly.

Chairman Dykstra asked what happened to the people that are already on there, and now they still can go another two, three years. Two three year terms? Yeah, I need my question answered.

Deputy Clerk Johnson stated I guess, right now you have term limitations. The new Charter, the 1996 Charter put in term limitations and said you can't serve more than two consecutive terms, and it considered two years as a full term, and what they are saying is in the instance of for instance, a Zoning Board of Adjustment, that is a quasi-judicial branch. There is a lot of legal information that you attain and learn only over the course of time. By limiting that to two consecutive terms, what happens is you may have as you do now, two people that were really key because they had a lot of knowledge that had to leave that Board because they now had served their two terms. And you are bringing in inexperienced people, and that's what they're concerned about.

Chairman Dykstra stated they wouldn't necessarily be inexperienced people. What I'm saying, there could be people that have worked in other parts of government that are very experienced or probably more so experienced than the people there. And it's not always to say that the people you have in there are doing a good job for the people, so it gives the opportunity to remove them which I think is good. Commissioner Shaw...

Commissioner Soucy stated but the opportunity already exists.

Chairman Dykstra stated excuse me. Commissioner Shaw and then you can have the floor.

Commissioner Shaw stated I've never believed in the concept of institutional knowledge. You see, if that was a requirement that the Boards have people on there because they know where everything is hidden, then the thing would be that when somebody new is appointed, they shouldn't get a vote. We allow people

appointed to Boards and Commissions to have a vote on day one, to speak up on day one. Institutional knowledge is just a ploy to keep people too long in government.

Chairman Dykstra interjected six years is a long time.

Commissioner Shaw stated so I don't favor any changes.

Commissioner Soucy stated the issue that I raised last time was specific to the judicial boards, the Planning and the Zoning Board. There is nothing that would require someone to continue to stay, but there are people serving that have a great deal of knowledge and have contributed a lot to those Boards who should have been given the opportunity to stay. What I'm suggesting or what Commissioner Duffy raised this evening is that there are certain boards where people should not be limited in their service. If they are willing to serve and are serving in good standing, there should be an opportunity for them to continue to do so, and Planning and Zoning are two instances where I think that's the case, and that issue was previously raised in public testimony before this Commission.

Commissioner Cook stated everything they've said is true, and we can think of particular examples of people who've served the City of Manchester very well for a very long period of time. So that's one side of the equation. The term limit side of the equation is, especially when it comes to the quasi-judicial Zoning and Planning ones, we have a reasonably professional Planning and Building Department in the City of Manchester that has all the institutional memory you're going to need. They remember and have files on every piece of property and what's happened. The difficulty and I think the rationale for term limits the last time was the other side of the coin is people get ensconced who may or may not be any good at what they do, and they hang around forever because people are afraid to get rid of them, and the compromise that was reached was the people who were in office then started six more years, so they have served a huge amount of time. There are a hundred and umptyump thousand people the City of Manchester. We still have departments that do a good job, and it's a close call. It's a close call, cause we all know people who did a wonderful job on the Planning Board for 30 years and contributed greatly to the City, at least one person, and he did a wonderful job for the City of Manchester, but I don't think that outweighs the fact that new blood on quasi-judicial boards making decisions doesn't get people institutionalized because the concern isn't that we lose talent. The concern was that we institutionalized people who may have a point of view that we can't shake. That doesn't make them doing anything illegal or anything with a conflict of interest, but it's just...you know, we had a Zoning Board with members on it for years in Manchester who rezoned whole parts of this City willy-nilly just by saying yes about stuff because that was a culture. I think that got straightened out.

We now are admittedly losing a couple of very good Zoning Board members because they got to six years. That's too bad, but I think the system we put in is a constantly refreshing system, and I would come down the other way.

Commissioner Shaw stated in the two instances that he brought up...I think I've mentioned to the committee that I've recently got cable television. In watching the Zoning Board the other day, and I saw a member on there that was reappointed by Mayor Shaw. I said still there? Still there, still there with the same bad attitude that he had when I reappointed him. I cannot believe it, you know. Commissioner Cook mentioned the Planning Board. People stay 30 years. Some people think that's great.

Chairman Dykstra interjected that's terrible.

Commissioner Shaw stated but you know it is terrible. Terrible is what it is, very terrible. We should vote this issue, and get rid of these people after two terms.

Commissioner Pepino stated I'll second that.

Commissioner Shaw stated there's already been a motion.

Chairman Dykstra stated clarification. Who made this motion?

Commissioner Duffy stated I believe I made the motion.

Chairman Dykstra asked and then who was it seconded by.

Commissioner Pepino asked what was it, for two terms.

Commissioner Duffy stated no. It was to eliminate term limits. Not to eliminate terms. To eliminate the number of times for quasi-judicial boards, specifically Board of Adjustment and Planning Board.

Commissioner Pepino asked how many terms.

Chairman Dykstra responded they could stay on for as long as they wanted.

Commissioner Cook stated they can serve as many as they want.

Commissioner Duffy stated no, as many as they get re-elected for.

Chairman Dykstra stated we don't want them on forever is what our feeling was. His feeling is there should be no terms. Who was the second?

Commissioner Soucy duly seconded the motion.

Chairman Dykstra stated all right. She's going to clarify it for the two that weren't here.

Deputy Clerk Johnson stated the motion on the floor is to eliminate the consecutive term limitation, I should say, for the ZBA and the Planning Board.

Commissioner Shaw stated for all Boards.

Deputy Clerk Johnson responded no, it was only those two.

Chairman Dykstra stated that wasn't the motion. That's one of the two important ones, that's right. I'd hate to tell you my experiences with them. So this is to eliminate the term limits for those Boards that he mentioned.

Deputy Clerk Johnson stated the ZBA and Planning.

A roll call vote was taken. Commissioners Duffy, Soucy, and Tessier voted yea. Commissioners Cook, Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Chairman Dykstra stated I just wanted to address...just to clarify. We've already voted on this, on page eight, just to do what we already voted on. It says commissioners shall continue to consult, so I just wanted to change that to will. We already voted on it. It was put here too, okay. I just wanted to make sure. We already voted on it before. We wanted to keep it consistent.

Deputy Clerk Johnson stated it's a different section, so you probably should vote on this.

Chairman Dykstra stated okay, I'm going to ask for a motion to change that to will.

Commissioner Wihby so moved.

Commissioner Soucy asked what section.

Chairman Dykstra stated it's the same thing we voted on before.

Commissioner Cook stated oh, in 11.

Chairman Dykstra stated, "Commissioners shall" and we changed it to "will". I just want to make it consistent. Moved by Commissioner Wihby, second by Commissioner Pepino.

Chairman Dykstra called for a vote. The motion carried with Commissioners Cook, Duffy, Soucy, and Tessier duly recorded in opposition.

Chairman Dykstra stated five to four. Okay, we're moving along here.

Commissioner Tessier stated I'd like to go to page 11, Section 4.02.

Chairman Dykstra stated okay, just one moment. We'll get that. 11, and that was 4.02, School Committee, a).

Commissioner Tessier stated School Committee, yes. I'd like to make a motion that the School Committee be comprised of 14 members, one residing from each ward and two At Large members.

Commissioner Cook duly seconded the motion.

Chairman Dykstra stated okay, moved by Commissioner Tessier to add the two School Committee members At Large back in. Second by Commissioner Cook, and we're going to...

Commissioner Tessier asked can I speak to the motion, please.

Chairman Dykstra responded yes, you may, certainly.

Commissioner Tessier stated my reason for reinstating the 14 members is to give every ward representation plus two additional people who would bring in a more open appreciation of what's going on in our schools and the schools in themselves to speak to construction and curriculum in a more objective manner, and not only representing their individual wards. I think we have to be careful that those people that are representing their own wards are competing against each other to see that their schools in their wards receive more than other schools, so I feel two other people will bring an open and fairer representation to the Board.

Commissioner Shaw asked how do we know that the people who run for these two seats have that perspective. They're just people from Ward 1 or Ward 6 or whatever. They're not really...I mean, if you could put down that they be bright, that they specifically not be Assistant Superintendents of the Manchester school system.

Commissioner Tessier interjected careful.

Chairman Dykstra stated there's no qualifications other than being a resident, you know that.

Commissioner Shaw stated for one year.

Commissioner Hirschmann stated my train of thought on this issue is that I would much rather see the funds, the thousands of dollars that we would save by withholding these positions really go to education. All the cries for paper in the schools and all the rhetoric, let this money go to kids. Never mind politicians. We have enough politicians.

Commissioner Pepino stated let me give you an idea of when I was an Alderman. This is what I used to do. The first thing I used to say, the Aldermen argued about paving. You're talking about the City and ward.

Commissioner Tessier asked paving.

Commissioner Pepino responded paving. Sidewalks. I'd tell the Highway Department, "I'm on your list, and when my name comes up for my paving, I will have it done. I will not ask you for anything." And when it came to citywide, oh yeah, I can say this. I am one of the only Aldermen in the City, the only one that ever built a building on Elm Street, and that's right across the street, the Chamber of Commerce. When I brought the plans to the unions, I said, "Here. This man wants to build this building." This is a City issue. This is downtown redevelopment. They took the plans, looked them over, set everything up, and they built it. There were no problems. There were only a few bucks over there spent. I think it was \$50,000.00 or \$60,000.00 in City funds because the City asked them to spend that money. That was economic development. I looked at myself as an Alderman serving my people and the City. Now you're talking about Aldermen At Large.

Commissioner Tessier interjected no, School Committee At Large.

Chairman Dykstra stated we're on the School Committee. You have to stay on the School Committee.

Commissioner Pepino stated well, School Committee At Large. I was one of the ones, Brad will tell you, I was before him twice asking for these At Large positions, cause like I gave for an excuse then when you have a lazy person elected, they have somebody else to go to. Now when the first ones got elected, I

went to the ones At Large. They took care of my problems, but I'll tell you. Young Rich Girard didn't run again. I had nobody to go to.

Commissioner Cook stated he was an Alderman.

Commissioner Tessier stated he was never on the School Committee.

Commissioner Pepino stated same thing.

Commissioner Duffy stated I'm not sure if the other Commissioners are as confused by the testimony we just heard from Commission Pepino as I am.

Chairman Dykstra interjected let's stay on the School Committee At Large.

Commissioner Duffy stated I'd like to say that the fact is that the parochial approach to ward politics and ward matters is something we're trying to address by saying the At Large, whether it be Aldermen. We've already had a vote on that. I'm now talking School Committee. I'm specifically interested in getting At Large positions continued in the Charter as they are today.

Commissioner Soucy stated I guess I just don't...I find the arguments for eliminating the positions interesting. The one about the money in particular, I mean, from the figures that I've seen distributed at most if a School Committee member were getting insurance, we would be paying perhaps up to \$21,000.00 to \$22,000.00. This Charter as it's presently drafted eliminates that provision. The At Large positions would then be paid \$2000.00 a year. That's \$4000.00, and perhaps \$4000.00 could buy supplies for a one school, but to suggest that that's...or for one project or for one classroom. That's the part of it that I just don't find persuasive, but what I don't understand, Commissioner Hirschmann you said you're opposed to the At Large. You ran for that office. What has changed your mind since you ran for that office and thought it was important enough to take the time...

Chairman Dykstra stated he can answer that. I even ran. Go ahead.

Commissioner Hirschmann stated Commissioner Dykstra and I both ran for At Large. We didn't believe in the posts. We wanted to eliminate the posts, and quite frankly, if we had taken the posts, we would have both resigned and left those seats vacant and saved the City thousands of dollars. And if you want to talk about your citywide point of view, there wouldn't even be a Civic Center if it were up to Dan O'Neil because he was against it, out there with a megaphone. That Verizon Arena you full well know, ward Aldermen put that on the map.

Commissioner Pepino stated it's true.

Commissioner Tessier stated well, I think we're getting off the subject a little bit. This is School Committee.

Chairman Dykstra stated well, it's School Committee. That's what we're talking about.

Commissioner Hirschmann stated if you want to take the gloves off, let's get down to it.

Commissioner Tessier stated I'm sorry, Commissioner. I'm not here to argue with you.

Chairman Dykstra stated we've discussed so much. I'm going to have it end with Commissioner Tessier, then Commissioner Cook, then we're taking a vote, cause we've gone over this so many times, it's getting redundant.

Commissioner Tessier stated but every argument is worth coming forth again, and I go back to my argument that we need more objective...someone said, "How do you know they're going to be smart or not?" Well, that's up to the people to elect people that represent them well, and when we go to the polls, we have to make sure that we vote for At Large people that are going to do the job. There's no guarantee that a ward person is going to do the job either, but I truly think watching the At Large people at work in the School Committee and having that opportunity, they were very much more objective about programs and plans and curriculum and spending money than the person that was representing a ward. I sat and watched that for a long time, and I truly believe that if you had studied the work that these At Large people did in the School Committee, I am speaking on the School Committee, you would be a little bit more objective about what they do.

Chairman Dykstra stated okay but Commissioner, I'm just going to interject. We're not talking about the person again. We're talking about the position, and it doesn't mean you're going to get a same person in there. It was supposed to be Commissioner Cook and then Shaw and then we're ending it. We're going to move the vote on this. It's going on too long. We've been here before.

Commissioner Cook stated I have a different perspective on the At Large School Committee because in 1996 when we had a Charter, I wanted At Large Aldermen. I wasn't particularly interested in At Large School Committee, and then I was one, and I like to think I wasn't a lazy one. The difference in function and the difference in what you're asked to do is important. People have tendency when

they have an issue in their ward to call their ward School Committee person about something that goes on in their ward. There is an additional function that is allowed to occur when you have a couple of At Large ones. We have had good At Large members. We have had less effective At Large members. It's just like every other elected officer holder. I like Commissioner Shaw's suggestion that we mandate brains, experience, and goodness and light, but brains, experience, goodness and light can't be built into qualifications for office unfortunately. But the function and the ability to function and the addition that the At Large add to the equation I think have worked. I've changed my mind from the beginning. I am neither an At Large School Committee member or a candidate ever again for that job, let me tell you. But it was an interesting experience that I think added to and did not subtract from that Board, and I think the same can be said for the other one, but we're not voting on that, so I would just say to you that I think it worked, and I think it has worked, and I think it's worthwhile.

Commissioner Shaw stated there are only two members of this Commission that ever served on the School Board, to my knowledge. Brad Cook as a member and myself as Chairman of the School Board. I argued for more money for them. I argued that they should be considered equal to the Aldermen, so I have a respect in a general sense for the School Board members. Their dedication is definitely not rewarded. They didn't take the job for the reward for sure, but many of the School Board members, even those that would be At Large, have an agenda. Could be something to do with Central High School. Could be something to do with Hillside. It could be a combination of things. When they get in there, I have found School Board members to be busybodies. You see, if we could legislate against them being busybodies as we did with the Aldermen...the Aldermen can not do certain things. We never subscribed to the School Board.

Commissioner Cook interjected yes, you did.

Commissioner Shaw stated if we didn't, we should. We should because, you see, the head of education, a lady that just retired in Concord from the State Department of Education said, "School Board members don't know what their job is and that they should be instructed in that." A head of a teachers' union in New York said, "School Board members should meet once a year, select the superintendent, and go home, and after that, come back a year later to decide whether she should stay another year." You see, they don't do that. They're busybodies. They have a right to be busybodies. They're elected by us, but it's time...it is time to reduce the number. If you went to nine, you see, that would be better. I could go 14.

Chairman Dykstra stated we're going to move the question. We're going to call for a roll call. Clarification of this vote, if you vote yes on this motion, you're

going to be voting for the 14 School Committee members. If you vote no, it will stay at the 12. Correct, Carol?

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Chairman Dykstra stated let's move on.

Commissioner Hirschmann stated page 12, Your Honor, top of the page, item d). I'd like to eliminate that. That's a motion. Participation for sending communities. I don't believe that sending communities should be on our committees.

Chairman Dykstra stated I voted against it, but okay, we have a motion.

Commissioner Wihby duly seconded the motion.

Chairman Dykstra asked any discussion. Hearing none, we're going to take a vote. You understand Commissioner Pepino, we're taking a vote on something here.

Commissioner Pepino stated get rid of this.

Chairman Dykstra stated Commissioner Hirschmann made a motion to get rid of it. It was seconded by Commissioner Wihby, and we're going to call for a vote.

Commissioner Shaw stated that gives her her 15 ½ people.

Commissioner Cook stated no, it doesn't. It's not on the School Board.

Commissioner Tessier stated they're not on the School Board, and they're only high school, remember that.

Chairman Dykstra stated yes is to remove this.

Commissioner Cook stated yes is to remove it, and no is to keep it.

A roll call vote was taken. Commissioners Hirschmann, Pepino, Wihby, and Dykstra voted yea. Commissioners Cook, Duffy, Shaw, Soucy, and Tessier voted nay. The motion failed.

Chairman Dykstra stated it loses four and five. Okay, now let's move on. As we're going along, can you please just jump in there and address whatever concerns you have.

Deputy Clerk Johnson stated we do have a handout on the retirement system.

Chairman Dykstra asked where is that. That's still a ways, right?

Commissioner Hirschmann stated we have the Charter Commission itself to go over.

Deputy Clerk Johnson stated yes, we have that too.

Commissioner Hirschmann stated let's take that up, item 8.02. Let's take up that because I would like to fix that.

Chairman Dykstra stated 8.02, periodic review. I was looking at that too.

Deputy Clerk Johnson stated Section 8.02. At the last meeting, we indicated to you that the periodic review wasn't consistent with law, and we would bring you back a couple of options. We did distribute to the Commission. We have an option one which is the 1996 language. That is consistent with law or option two which is a rewrite of what is in there now. Option one is your 1996 Charter, what's in there now.

Commissioner Shaw stated and option two is the 1982 Charter.

Commissioner Cook stated no.

Deputy Clerk Johnson stated option two is the 1982 Charter with changes to make it consistent with State law.

Commissioner Hirschmann stated I want it to say nine members. It doesn't say it.

Commissioner Duffy stated, Madame Chair, my motion would be to modify option two to appoint nine citizens. These are all appointed? I'd like a clarification on this.

Commissioner Hirschmann stated I don't want to appoint anybody.

Deputy Clerk Johnson stated if you want them elected, it's option one. Option one is consistent with State law. It would have the same process you did this time.

Commissioner Hirschmann stated I move option one.

Commissioner Cook duly seconded the motion.

Commissioner Pepino asked what's option one.

Commissioner Hirschmann stated elected officials.

Deputy Clerk Johnson stated the same as what you have now. What it does is the Board would send the question to the voters pursuant to State law that says, "Do you want a Charter Commission established?" If the voters say yes, then a Charter Commission gets established, and you have an election for nine members. If the voters say no, then you have no Charter revision, and within another ten years, they got to ask the question again.

Chairman Dykstra asked where does it say Charter members elected.

Deputy Clerk Johnson responded it's consistent with the State law. That's what the State law requires.

Chairman Dykstra stated one thing I wanted to mention while we're bringing that up. I had had a problem with. Not less than once every ten years, that means in two years you can have another Charter revision. That means next year you can have one. I would like to say once every ten years. I mean, why do we want the Charter Commission to take place every year?

Commissioner Hirschmann asked what does State law say.

Chairman Dykstra stated why is it. I mean right now, if they don't like this, in two years they can have another Charter Commission.

Commissioner Cook stated all the State law says is you have to do it at least every ten years, but I don't think that means you can't do it more often if you want.

Chairman Dykstra stated so that means you can do it one year. You can do it next year again if they can get it on the ballot. I just didn't want to make it that soon.

Commissioner Cook stated I completely agree with you on that, but I think the law says...

Commissioner Pepino stated no, it's ten years.

Deputy Solicitor Arnold stated I don't think you can alter that.

Chairman Dykstra stated you can't alter it, then that's fine. I just needed to ask that question.

Deputy Clerk Johnson stated she's saying every ten years, but she's saying is every ten years they have to put the question out. That doesn't prohibit them from putting it out any sooner, but every ten years on that.

Commissioner Cook stated I think what she's trying to get across is every ten years, not sooner, not later, just every ten years.

Chairman Dykstra stated we just had it what six years, seven years.

Deputy Clerk Johnson stated they can do it sooner under Statute.

Chairman Dykstra stated they can. Okay, that's not a big thing.

Commissioner Shaw stated this here, it's eight to one, but I'm still going to argue. The rationale for option two is that the questions proposed by the committee, you could elect the nine people if you want, but they can't change the whole Charter. They have to put questions, pieces of it. I'm opposed to nine delightful citizens like us meeting again on a subject that shouldn't be changed at the whim of...I think that we need to put a Charter before the people and questions before the people that are specific, specific to changing something, one issue, one, two, three...

Chairman Dykstra asked do you know how long that would be to put everything in that we changed.

Commissioner Shaw stated no, no, no, well, it could be sent over years. The State Constitution isn't changed that way.

Chairman Dykstra stated but we should provide the document for them to look at before they vote on it. That's another problem. How do you put it on a ballot? That's a lot to put on a ballot.

Commissioner Cook stated could I see if I understand Commissioner Shaw correctly. There is a mechanism for considering specific changes of the Charter, and that is the Aldermen pass a Charter amendment and pass it on to the people, and the people have to vote on it. That can be started by people coming to Aldermen and saying, "Here's a change I'd like." And it can also be done by Aldermen coming up with the ideas themselves, so there is a mechanism to make this change or that change. If, on the other hand, you're saying we should be able

to...and this is the State law thing which I think says the entire Charter as amended gets put as one question. If you're saying we should be able to break it up into 15 different questions so they can pick and choose, I don't think that's allowed.

Chairman Dykstra stated and even if it was, what if they picked one section, Brad, then what takes place. Do we go back to the old one or do we have nothing? What if they vote one down?

Commissioner Cook stated well, if they picked one section, I suppose the old Charter would stay the way it is.

Chairman Dykstra asked what if they vote one up and one down. It would be so confusing. So what would we do? It would be Bob because what would we do? If they voted against a certain thing, what do we do, go back to the existing, the old one?

Commissioner Soucy stated yes.

Chairman Dykstra stated it would be way confusing.

Commissioner Shaw stated if five citizens go to the Aldermen and say, "Let's put a Charter thing on there," then the Aldermen will do that. What? Five? How many do you need?

Deputy Clerk Johnson stated we don't have a motion on the floor yet.

Chairman Dykstra stated we have a motion. Didn't you make a motion.

Commissioner Hirschmann stated I thought I made a motion for item one.

Chairman Dykstra stated okay, a motion made by Commissioner Hirschmann for option number one.

Commissioner Cook stated I seconded it.

Chairman Dykstra stated second by Commissioner Wihby.

Commissioner Cook stated as long as it got seconded, it doesn't matter.

Chairman Dykstra called for a vote. The motion carried with Commissioner Shaw duly recorded in opposition.

Chairman Dykstra stated let's move on.

Commissioner Hirschmann stated good, we got rid of that.

Deputy Clerk Johnson stated employee retirement system.

Chairman Dykstra stated okay, she's got some information on the retirement system.

Deputy Clerk Johnson stated 8.08 and 8.09. You had asked the City Solicitor to do a review of the laws here. Section 8.08 and 8.09, you had asked the City Solicitor to review it and check with consistency with current law. He has done so and found some differences, and so I asked him to draft some language for you, and this is what he is submitting for you for consideration.

Deputy Solicitor Arnold stated basically what all this does is that it adds the two public law, session laws that had been enacted since the last Charter.

Chairman Dykstra stated so, it just makes it legal. Well, laws have changed, so we added those in.

Deputy Clerk Johnson stated laws have changed, so you have to be consistent with the current laws.

Chairman Dykstra stated we had to be consistent, so we added the laws that pertain to this section. Does anybody have a problem with this? Any discussion on this at all? We haven't really had a motion. Anybody want to move on this language?

Deputy Clerk Johnson stated but you've got another discussion over here. He's trying to ask questions.

Chairman Dykstra stated wait a minute Leo. That's why you can't remember what we're doing here now.

Commissioner Pepino stated I'm trying to get information.

Deputy Clerk Johnson asked but can everybody share in the information because really what you're asking about is whether if a new law is introduced, where is that in here. That's his question.

Commissioner Pepino stated that's what I'm asking.

Deputy Clerk Johnson stated and everybody probably wants to hear the answer.

Deputy Solicitor Arnold stated what has happened since the last Charter was passed, two new laws, public laws, that had not been added into the RSAs but public laws have been passed. That's laws 2002 Chapter 194 and laws 2002 Chapter 147, so they are added to the list of the laws that remain in full force and effect. If laws are passed in this session or in the future and sent to referendum and pass, then presumably they would want to add them next time they do a Charter revision, but at this point, they haven't been enacted.

Commissioner Pepino stated the next one could be a big one.

Deputy Clerk Johnson stated but you'd have to send it to referendum is what he's saying.

Deputy Solicitor Arnold stated you'd have to send it to referendum, and you wouldn't refer to it in this section.

Deputy Clerk Johnson stated so we need a motion to accept this language as a replacement.

Chairman Dykstra stated Commissioner Cook made a motion. It was seconded by Commissioner Soucy.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated okay, so that's added into the retirement. That's going to replace 8.08 and 8.09.

Commissioner Duffy stated Madame Chair, excuse me. I stepped out of the room for a moment when you moved over. I'd like to go to 8.03, compensation of officials. Page 28. Under a) under 8.03, again if we insist on having a stated salary for the Mayor which I firmly oppose. Quite honestly, I would prefer to have the language similar to what Commissioner Shaw had introduced back a number of meetings ago, but failing that, failing that I think that in all sincerity, this Commission shouldn't walk away from the fact that changing this salary for the Mayor which is in fact going to be into effect somewhere between 12 to 15 years needs to be modified.

Chairman Dykstra interjected excuse me. Did you make a motion? Cause we didn't get a second. We need a second.

Deputy Clerk Johnson stated he didn't make it yet.

Commissioner Duffy stated I haven't got to it yet.

Chairman Dykstra stated I need to have a motion. We'll discuss it after the motion.

Commissioner Duffy stated my remarks are in preface of the motion which is to, given the fact that we're unable to come to agreement on what Commissioner Shaw has introduced that we increase the salary of the Mayor from the \$68,000.00 which is mentioned here in this draft of the Charter to increase it to \$75,000.00.

Chairman Dykstra asked is that the motion.

Deputy Clerk Johnson stated that's his motion.

Commissioner Duffy stated that's pretty specific.

Commissioner Cook duly seconded the motion.

Commissioner Pepino stated we debated this for weeks and weeks and weeks, so I'd like to say we've already heard the debate. I'd like to move the question right now.

Chairman Dykstra stated all right, we're going to move the question. We're going to have a roll call vote.

Commissioner Tessier asked is there a second on moving the question.

Chairman Dykstra stated second by Wihby. You don't need a second to move the question really. We're just moving it.

Commissioner Hirschmann asked what is the effective date.

Deputy Clerk Johnson stated there's no effective date stated. You'd have to go back and visit that.

Chairman Dykstra stated if you want to keep it the \$68,000.00, you vote no correct. The motion on the floor is for \$75,000.00.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Chairman Dykstra stated okay, is there anything else here that we need to address.

Deputy Clerk Johnson stated you've already voted to, but we need to...I just want to make sure that no one else recognized any transition provisions.

Chairman Dykstra asked is there anything else before the transition that you want to address. I mean, just to clarify Carol, this goes to a public hearing. Then we still after listening to public testimony can make changes before this goes to the Attorney General, DRA, Secretary of State, wherever it goes to. Is that correct? I need to...

Commissioner Pepino stated I have a question here.

Chairman Dykstra stated I asked her one question. Let me get the answer and then you can ask that. This has something to do with the time frame, just so we know where we're at and what we're doing.

Commissioner Cook stated I thought the last time we sent it to...

Deputy Clerk Johnson stated I have the answer right here. Your state review takes place within ten days of the preliminary report filing with the City Clerk which is what you are sending to a public hearing on April 30th is your preliminary report which is this draft that you have to date. We originally had suggested you set a deadline in April in order to make it to that April 30th date for public hearing and have it, you know, disposed of at that time. If you're done sooner, you can always move that schedule up, but once you're ready to file that preliminary report, and you vote on it as a preliminary report to the Clerk, we then forward that to the Secretary of State, to the Attorney General, and the Department of Revenue Administration.

Chairman Dykstra asked what date is that.

Deputy Clerk Johnson responded whatever date you file the report with me which would be tonight I guess if...They have 14 days from that point in time that we forward it to them to respond to you in writing if there's any inconsistencies with State law.

Commissioner Duffy stated okay, Carol, may I ask is there anything different you're saying than what you previously shared with us in correspondence dated January 2nd.

Deputy Clerk Johnson responded January 2nd, that's what I'm reading from.

Commissioner Duffy stated so, it's the same as you said then.

Commissioner Hirschmann stated pursuant to her time line, I would like to submit, I guess I'll have to do it through the mail if we're not meeting next week, but I would like to submit the resume of William Sy Dahar attorney for consideration of reviewing this to go to the authorities in Concord.

Deputy Clerk Johnson stated the written opinion by the attorney is actually done with the final report, not with your preliminary report.

Commissioner Hirschmann stated well, I would still like to bring his resume forward for your consideration.

Commissioner Shaw asked does he have municipal experience.

Commissioner Hirschmann stated I will bring it forward.

Chairman Dykstra stated okay, good. Just send it to us.

Commissioner Cook stated I know Attorney Dahar, and he's a fine person. The area of municipal law is as are many areas of law specialized. There are several groups of lawyers who I don't think have any connection to Manchester which I think is one of the things that we have to...that is working for Manchester and being led by Manchester in any cases. And I would think that what we would need, and I would think that the Solicitor's office can probably do this for us as well. I'm not saying we shouldn't get any particular resumes, but if the Solicitor's office I think that get us either through the Municipal Association or some place a list of attorneys who are familiar with and regularly practice in municipal law, I think that would be helpful too in our review.

Commissioner Hirschmann stated I'd like to add to that because we went out of our way to put into this Charter that we want procurement for local people. Sy Dahar is a local Manchester attorney, and if he's going to come up with a list of people that are going to be paid to do a task on behalf of the City of Manchester, I'd like to make sure that it's someone from this area that could be considered as procurement-wise.

Commissioner Cook stated that's fine.

Chairman Dykstra asked what is he going to be charging. Do you know anything? We already got money. Do we have money allocated, a certain amount?

Commissioner Hirschmann stated that wasn't entered into a discussion. I just said that I would bring his resume forward for your consideration.

Chairman Dykstra stated that's fine.

Commissioner Cook stated if he has that experience, we should consider it.

Deputy Clerk Johnson stated we only want to point out that you do need to follow procurement procedures, and my suggestion is that the Solicitor's office handle that because they're the ones that handle obviously purchasing of legal services on behalf of the City, but the procurement code basically you've reserved up to I believe it was \$5000.00 in the budget. I'd have to double check it, but that's my recollection for that purpose, and therefore you would need to get at least three quotes on the procurement law.

Commissioner Hirschmann stated point of order on this. I made the motion to have the City Solicitor as part of our Commission. This Charter Commission has in its own purview to hire the legal staff it so sees fit, and that is what the motion that we're going to do. He is not in charge of who we hire.

Deputy Clerk Johnson stated I'm not suggesting that.

Commissioner Tessier stated she didn't say that.

Commissioner Hirschmann stated well, read the minutes of what she just said.

Deputy Clerk Johnson stated then maybe I didn't say it the way I intended to.

Commissioner Hirschmann stated yeah, you didn't say it the way you intended to.

Deputy Clerk Johnson stated my point was is that in the process, whatever process you choose to hire an attorney of your choice...

Commissioner Hirschmann stated the Charter Commission will choose.

Deputy Clerk Johnson stated to hire an attorney of your choice, you need to follow those procurement procedures in that process.

Deputy Solicitor Arnold stated what I could do is...I would prefer quite frankly not to have a hand in deciding who you hire to have this reviewed by. I think there's a conflict there. What I could do is there is a municipal law section of the New Hampshire Bar, and I can get a printout of the names of people have become members of that section which I guess maybe in some minimal fashion will at

least indicate an interest in municipal law. I'm not sure of further qualifications. Last time I checked I think there were about 150 names as members of that section.

Chairman Dykstra stated that's fine.

Deputy Solicitor Arnold stated the Commission could use that as guidance in selecting some names. Now, as Carol was referring to, since this presumably is going to be a procurement for under \$10,000.00, the procurement code requires that you get an adequate number of quotes and that you document those quotes. Presumably out of the names you feel qualified would get quotes from, you would select the low bidder.

Commissioner Shaw stated would it move the process forward if the City Attorney gave the City Clerk the names of the people who have municipal part or whatever he said and that a letter went to them asking if they were interested so that when we go through the 150 names, we're down to the last 50 or something.

Chairman Dykstra asked you want 150 people.

Commissioner Shaw stated it could be. His list could give us 150 names. Maybe.

Deputy Solicitor Arnold stated you could certainly do it that way. The other way maybe to approach it is to give the list to this committee, and this committee could then, this Commission I should say, could indicate who would they be interested in having submit quotes.

Chairman Dykstra asked how much would an ad in the paper cost.

Deputy Clerk Johnson responded probably under \$200.00 for a small ad. \$250.00.

Commissioner Hirschmann stated I'll move for a public solicitation.

Chairman Dykstra stated moved by Commissioner Hirschmann, second by Commissioner Wihby...just to advertise for an attorney.

Commissioner Tessier stated we could buy a lot of paper for the schools with that money.

Deputy Clerk Johnson stated in the public solicitation, we'll merely state the...

Chairman Dykstra stated we don't need to do that right now anyway.

Deputy Clerk Johnson stated well, if you're going to advertise, you need to allow a closing period, and then you're going to want to review this.

Commissioner Hirschmann stated yeah, we'll get them. We'll get solicitations.

Deputy Clerk Johnson stated what you can do is solicit people who are interested simply by putting an ad in the paper and saying, "Those specializing in municipal law who have an interest." And then they would express letters of interest, and from there, the Commission can take it.

Chairman Dykstra stated all right, that sounds fine to me.

Commissioner Cook stated whatever we need, someone is going to have to start the process.

Chairman Dykstra asked where are these going.

Deputy Clerk Johnson stated we can have those forwarded to the Clerk's office. I just don't have any experience with law.

Chairman Dykstra stated whatever you get in the Clerk's office, you can give to us when they come in, okay, and then we can decide what to do.

Deputy Clerk Johnson stated we can collect them, and then we can disburse them to the Commissioners.

Commissioner Shaw asked do we have to take a vote to send this to public hearing, or have we already done that.

Chairman Dykstra stated well, it goes to...I think, do we need a vote to go to...

Commissioner Soucy stated we haven't finished.

Commissioner Shaw asked what do you send to public hearing.

Chairman Dykstra stated we're sending what we have here, and then we still can...

Commissioner Cook stated we haven't done any transition.

Chairman Dykstra stated we did part of it.

Commissioner Shaw stated I was just saying to you, I don't understand.

Commissioner Cook stated we haven't taken that vote yet.

Chairman Dykstra stated no, we still have time to do that, the transition.

Commissioner Hirschmann stated Senator Gatsas has a bill in.

Deputy Clerk Johnson stated you have language coming back to you, so I guess you're still coming back for another meeting next week.

Chairman Dykstra stated we haven't done anything yet, so we can't do anything today.

Deputy Clerk Johnson stated I don't have anything to send as of right now because you haven't...

Commissioner Duffy stated Madame Chair, I'd like to think that we have one meeting going on here. There's a lot of dialogue.

Chairman Dykstra stated just as Chair, I'm asking her when we can send it. I have to know.

Commissioner Duffy stated I'm not just talking about you speaking to the Clerk. I'm talking about other members carrying on conversations.

Chairman Dykstra stated please, let's try to keep our conversations down.

Deputy Clerk Johnson stated I believe you still have some language coming back next time.

Chairman Dykstra stated just let me know what it was. I don't think there was. We're just trying to find out what we need to do.

Deputy Clerk Johnson stated there's one item in here that you did request that the Solicitor go back and draft language on and come back at the next meeting with, so until you have that provision in here, I don't believe you want to send your preliminary report out incomplete. We can put it together again. We can update the document for the actions you've taken tonight, and get it readjusted and so forth. Give you another draft. He can bring in the language at your next meeting, and then you can send as your preliminary report because then you'll have something in writing, and in the meantime, I am asking that any member that sees that there is a transition provision that you want addressed that we get it addressed at that next meeting, cause you are pushing up against the...

Commissioner Cook stated we have never voted as far as I know on 10.01, for example.

Chairman Dykstra stated okay, we can do those things. The only thing I'm saying is that there's going to have to be a change in the meeting for next week. The only change. It can't be on a Wednesday. If you want it any other time, like a Monday or a Thursday.

Commissioner Tessier asked why can't it be on Wednesday.

Chairman Dykstra stated I'm sorry that I cannot make it, and all of these Wednesdays that I've accommodated everyone, it's been very bad for me, but I've accommodated all of you, have held out votes for certain Commissioners, and I'm just asking that we make it on a day that I can be here. Monday or I just can't make it Wednesday because I have a commitment in a Ward 2 thing I promised to do.

Commissioner Cook asked could we do it earlier on Wednesday. I mean, this isn't going to take a whole long time to adopt one more provision and...

Chairman Dykstra stated well if you want to do it on a Wednesday, I could at 3 or 4 o'clock, that's fine.

Commissioner Cook stated if we did it at 4. It sounds to me like we have two votes to take next week, the one provision and then voting on...

Chairman Dykstra stated if you want to make it next Wednesday at 4 o'clock, that's fine with me. I can do that. I mean, we'll just take an hour.

Commissioner Cook stated that would fit more into the cycle that people are used to.

Commissioner Hirschmann asked will you adjourn that meeting upon your leave. I mean, we're not going to keep that meeting going while you leave.

Chairman Dykstra stated no, it's going to go for...well, what do we have to do. Address the rest of the transition, and just address this language. I'm going to tell you right now that I'm not going to recognize motions for the Aldermen At Large again at this time as we've done it about half a dozen times so. That wasted a lot of time tonight, going over the same 5-4 votes.

Commissioner Shaw asked couldn't we meet on Tuesday at 5 o'clock.

Deputy Clerk Johnson stated Tuesday evening, the rooms are booked.

Chairman Dykstra asked you can't make the 4 o'clock. It's just going to be an hour.

Commissioner Shaw stated no, I don't think it's fair to other people that have jobs to have to get out of their jobs because we've never had...

Commissioner Hirschmann stated I thought you believed in daytime government.

Chairman Dykstra stated Commissioner, I go to work at 4 o'clock in the morning, and I still come to these meetings every night.

Commissioner Shaw stated well, I believe we should be notified...

Chairman Dykstra asked is that going to be a problem, Commissioner. Is that going to be a problem for 4 o'clock next Wednesday.

Commissioner Cook asked what time is your commitment.

Chairman Dykstra stated I have something at six o'clock.

Commissioner Cook stated 6 o'clock. So if we come at 4, and we'll work till 5:30. Okay.

Chairman Dykstra stated 4 o'clock next Wednesday which is what, the 16th. Okay, next Wednesday the 16th at 4 o'clock. We should be done in an hour. We're not going to go over the same things again and again. So basically, we're just going to clarify. We're going to put that together. Is there anything else, Carol? She's going to put the ad in. We agreed to put that ad in?

Commissioner Cook stated yes.

There being no further business to come before the Commission, on motion by Commissioner Duffy, duly seconded by Commissioner Pepino, it was voted to adjourn.

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____
Donna M. Soucy, Secretary